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- VOLUME A -

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

- - -

ZF MERITOR LLC and MERITOR	:	CIVIL ACTION
TRANSMISSION CORPORATION,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
EATON CORPORATION,	:	
	:	
Defendant.	:	NO. 06-623 (SLR)

- - -

Wilmington, Delaware
Friday, September 11, 2009
9:55 o'clock, a.m.

- - -

BEFORE: HONORABLE SUE L. ROBINSON, U.S.D.C.J., and a jury

- - -

APPEARANCES:

DRINKER, BIDDLE & REATH LLP
BY: KAREN V. SULLIVAN, ESQ.

-and-

Valerie J. Gunning
Brian P. Gaffigan
Official Court Reporters

1 APPEARANCES (Continued):

2
3 DICKSTEIN SHAPIRO LLP
4 BY: JAY N. FASTOW, ESQ.,
5 PAUL R. TASKIER, ESQ.
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16 BY: DONALD E. REID, ESQ.

17
18 -and-

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20 HOWREY LLP
21 BY: JOSEPH A. OSTOYICH, ESQ.,
22 ROBERT F. RUYAK, ESQ.,
23 MELISSA HANDRIGAN, ESQ.
24 ANDREW D. LAZEROW, ESQ.,
25 ERIK T. KOONS, ESQ. and
WILLIAM C. LAVERY, ESQ.
(Washington, D.C.)

Counsel for Defendant

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1 P R O C E E D I N G S

2 (Proceedings commenced in the courtroom,
3 beginning at 9:55 a.m.)

4 THE COURT: All right. I understand that our
5 jury is on its way up. I gave them coffee and doughnuts so
6 they could be in a good mood. And there's leftovers, so we
7 can have them while we're doing voir dire.

8 Are there any issues that we should address this
9 morning?

10 MR. FASTOW: Your Honor, just a couple of
11 introductions, if I might.

12 THE COURT: Sure.

13 MR. FASTOW: I think this is the time for client
14 representatives.

15 THE COURT: Sure.

16 MR. FASTOW: First, I'd like to introduce Mr.
17 Charles Allen, who will be the representative for plaintiff
18 ZF Meritor.

19 THE COURT: Already.

20 MR. FASTOW: And although he's not here today,
21 Mr. Vernon Baker will be the representative for plaintiff
22 Meritor Transmission.

23 THE COURT: All right. Thank you very much.

24 MR. FASTOW: I'd also like to introduce Mr. John
25 Gilliland, who we'd like to have join us today as a

1 consultant with the jury selection process.

2 THE COURT: All right.

3 MR. FASTOW: And we would trust that defense
4 counsel wouldn't make any comments about his role today.

5 THE COURT: All right. Now, I don't generally
6 allow jury consultants into the voir dire, but, certainly,
7 when you are exercising your peremptory challenges, you
8 certainly may.

9 MR. FASTOW: Thank you, your Honor.

10 THE COURT: All right.

11 MR. RUYAK: I have an introduction. I would
12 like to introduce Mr. Ken Davis, who is our corporate
13 representative. He's president of the America's Vehicle
14 Corporation.

15 THE COURT: All right. Thank you very much.

16 You can let them in if they're ready.

17 (The prospective jurors entered the courtroom.)

18 THE COURT: We are going to have to use the
19 first two rows ultimately, but if you want to just rearrange
20 everybody afterwards, that's fine.

21 And you all may be seated. Sorry.

22 Good morning, ladies and gentlemen. I am
23 delighted and actually surprised that so many of you showed
24 up today, and the parties and I truly appreciate your coming
25 in this weather from all parts of the state, so thank you

1 very much.

2 This exercise will take a little bit of time, so
3 please bear with us.

4 The good news is, we're going to select a jury
5 today, but once we select our jury and swear them in, we
6 will send you home and we'll start the trial officially on
7 Monday. So it will be a long morning, but we will let you
8 enjoy your Friday afternoon.

9 Good morning. I'm Judge Robinson. I will be
10 presiding over the trial for which a jury is about to be
11 drawn in the case captioned ZF Meritor LLC and Meritor
12 Transmission Corporation versus Eaton Corporation.

13 Briefly stated, this is an action arising under
14 the antitrust laws of the United States. Plaintiffs and
15 defendant are or were manufacturers of automotive
16 components. More specifically, heavy-duty truck
17 transmissions.

18 Plaintiffs claim that defendant engaged in
19 conduct that foreclosed competition and created a monopoly
20 in the markets for such transmissions, thus violating the
21 antitrust laws of the United States.

22 Defendant denies these allegations.

23 The trial may last up to 16 days. I time my
24 trials, so the attorneys have to complete their trial
25 presentations within these limits. However, jury

1 deliberations may require you to be present longer than the
2 scheduled 16 days.

3 Our trial days will run approximately from 9:30
4 in the morning until 4:30 in the afternoon. I note that
5 trial is currently scheduled to run from today through
6 October 7th. However, no trial is scheduled for Friday,
7 September 18th, Monday, September 21st, or Monday,
8 September 28th.

9 Now, in light of this brief summary, I'm going
10 to ask you certain questions, the purpose of which is to,
11 first, enable the Court to determine whether or not any
12 prospective juror should be excused for cause, and, second,
13 to enable counsel for the parties to exercise their
14 individual judgment with respect to peremptory challenges.
15 That is, challenges for which no reason need be given by
16 counsel.

17 If any of you answer any of these questions
18 "yes" in your head, you need to stand up, and upon being
19 recognized by me, state your juror number. Now, there are
20 an awful lot of you here, and it's going to get confusing if
21 you all state your number at the same time. I try to go
22 from front to back and the left side, my left side of the
23 courtroom and then go over to the right side of the
24 courtroom, so just be aware of who is standing up around you
25 and try not to talk at the same time.

1 For those of you who answer any of the questions
2 "yes," we're going to call you up individually, to follow up
3 on those answers.

4 All right. Ms. Davis, would you please
5 administer the oath.

6 (Jury panel sworn/affirmed.)

7 THE COURT: You may be seated. Thank you very
8 much.

9 All right. Now, you have been given -- I hope
10 you've been given a lot of lists, and the first couple of
11 questions that I have for you are with respect to those
12 lists.

13 The first is the list of companies and
14 organizations. And the first question is, have you, a
15 family member, or close friend, ever worked for any of these
16 companies or organizations?

17 Your number?

18 JUROR NO. 29: 29.

19 THE COURT: 29.

20 JUROR NO. 66: 66.

21 THE COURT: 66.

22 JUROR NO. 21: 21.

23 THE COURT: 21?

24 JUROR NO. 21: 21.

25 THE COURT: 21. Thank you.

1 And your number?

2 JUROR NO. 65: 65.

3 THE COURT: 65. Thank you.

4 It's good if I repeat your number. That means
5 I've got it.

6 Yes, sir?

7 JUROR NO. 58: 57.

8 THE COURT: 57. Thank you.

9 JUROR NO. 30: 30.

10 THE COURT: 30.

11 Anyone else on that question?

12 All right. The second question, still with
13 respect to this list of companies and organizations, do you
14 or any member of your household now own, or have you or any
15 such member ever owned any stocks or bonds in any of these
16 companies or organizations?

17 JUROR NO. 29: 29.

18 THE COURT: 29.

19 JUROR NO. 66: 66.

20 THE COURT: 66.

21 JUROR NO. 25: 25.

22 THE COURT: 25.

23 Anyone else?

24 Next question, still with regard to this list.

25 Have you, any family member, or anyone close to you ever had

1 any dealings with or relied financially in any way on any of
2 the companies or organizations?

3 JUROR NO. 25: 25.

4 THE COURT: 25.

5 JUROR NO. 29: 29.

6 THE COURT: 29.

7 JUROR NO. 30: 30.

8 THE COURT: 30.

9 JUROR NO. 33: 33.

10 THE COURT: 33.

11 JUROR NO. 36: 36.

12 THE COURT: 36.

13 JUROR NO. 79: 79.

14 THE COURT: 79.

15 And if you have any doubts, it is better to be
16 safe than sorry and just stand up and share your concerns.
17 Give us your number and share your concerns when we call you
18 up.

19 All right. Yes?

20 JUROR NO. 69: 69.

21 THE COURT: 69.

22 JUROR NO. 53: 53.

23 THE COURT: 53.

24 Anyone else? Yes?

25 JUROR NO. 65: 65.

1 THE COURT: 65.

2 JUROR NO. 56: 56.

3 THE COURT: 56.

4 JUROR NO. 66: 66.

5 THE COURT: 66.

6 JUROR NO. 1: 1.

7 THE COURT: 1. Okay.

8 All right. I think this is the last question
9 that has to do with that list.

10 Have you, any family member, or anyone close to
11 you had any experience with the products of any of those
12 companies or otherwise have any strong feelings, positive or
13 negative, toward any of these companies or organizations?

14 I will start over on this side. Yes, sir?

15 JUROR NO. 70: 70.

16 THE COURT: 70.

17 JUROR NO. 29: 29.

18 THE COURT: 29.

19 JUROR NO. 30: 30.

20 THE COURT: 30.

21 JUROR NO. 36: 36.

22 THE COURT: 36.

23 JUROR NO. 33: 33.

24 THE COURT: 33.

25 JUROR NO. 21: 21.

1 THE COURT: 21.

2 JUROR NO. 4: 4.

3 THE COURT: 4.

4 JUROR NO. 56: 56.

5 THE COURT: 56.

6 JUROR NO. 2: 2.

7 THE COURT: 2.

8 All right. The next question has to do with the
9 list of additional parties to the litigation.

10 Have you, any family member, or anyone close to
11 you had any deals with any of these -- well, with these
12 companies?

13 All right. I'm sorry. Hold on. I just want to
14 make sure I have the right list myself. Yes. All right.
15 With these companies.

16 JUROR NO. 70: 70.

17 THE COURT: 70.

18 JUROR NO. 25: 25.

19 THE COURT: 25.

20 JUROR NO. 60: 60.

21 THE COURT: 60.

22 JUROR NO. 30: 30.

23 THE COURT: 30.

24 JUROR NO. 69: 69.

25 THE COURT: 69.

1 JUROR NO. 3: 3.

2 THE COURT: 3.

3 All right. You have been given a list of
4 attorneys and law firms involved in this litigation. The
5 question is, are you related to, or personally acquainted
6 with, any of these attorneys, or have you ever been
7 represented by any of these attorneys or other associates or
8 members of the listed law firms?

9 Yes, ma'am?

10 JUROR NO. 51: 51.

11 THE COURT: 51.

12 JUROR NO. 4: 4.

13 THE COURT: 4.

14 JUROR NO. 3: 3.

15 THE COURT: 3.

16 30.

17 Anyone else?

18 All right. Now, can I ask counsel a question
19 before I ask this question of the jury pool? The next
20 question is about the individuals who might appear as
21 witnesses in this case and the question is, are any of them
22 from Delaware? If they are not, then that would help these
23 folks determine whether they might know someone, just as an
24 added bit of information.

25 Any of them from Delaware? Don't know?

1 MR. FASTOW: I don't know, your Honor.

2 THE COURT: Don't know.

3 MR. OSTOYICH: We don't think so, your Honor.

4 THE COURT: All right. We don't think they are
5 from Delaware, but we can't be sure. So if you have any
6 doubts, let us know. The list of individuals who might
7 appear as witnesses in this case, are any of you related to,
8 or personally acquainted with, any of these individuals?

9 (No audible response.)

10 THE COURT: All right. Next question, do you
11 have any personal knowledge of this case, or have you read
12 or heard it discussed, or have an opinion regarding it?

13 (No audible response.)

14 THE COURT: Next question. Have you ever been a
15 plaintiff, a defendant, or a witness in a civil lawsuit?

16 JUROR NO. 4: 4.

17 THE COURT: 4.

18 That's the good news. Okay.

19 Next question. Have you ever served as a juror
20 in a civil, not a criminal, a civil lawsuit?

21 JUROR NO. 57: 57.

22 THE COURT: 57.

23 JUROR NO. 49: 49.

24 THE COURT: 49.

25 JUROR NO. 60: 60.

1 THE COURT: 60.

2 JUROR NO. 39: 39.

3 THE COURT: 39.

4 Next question. It has to do with a list of
5 subject areas that you were given. And the question is,
6 have you ever been educated, employed, trained, or had any
7 experience in any of those areas?

8 JUROR NO. 42: 42.

9 THE COURT: 42.

10 JUROR NO. 46: 46.

11 THE COURT: 46.

12 JUROR NO. 53: 53.

13 THE COURT: 53.

14 JUROR NO. 28: 28.

15 THE COURT: 28.

16 JUROR NO. 1: 1.

17 JUROR NO. 30: 30.

18 THE COURT: 30.

19 JUROR NO. 36: 36.

20 THE COURT: 36.

21 JUROR NO. 33: 33.

22 THE COURT: 33.

23 JUROR NO. 15: 15.

24 THE COURT: 15.

25 JUROR NO. 79: 79.

1 THE COURT: 79.

2 JUROR NO. 4: 4.

3 THE COURT: 4.

4 All right. Next question. Have you ever worked
5 for a company that has been alleged to have engaged in or
6 has alleged that another company has engaged in an unlawful
7 monopoly or restraint of trade?

8 JUROR NO. 56: 56.

9 THE COURT: 56.

10 Next question. Do any of you work for a company
11 that buys or leases large trucks?

12 30.

13 36?

14 JUROR NO. 36: Yes.

15 JUROR NO. 19: 19.

16 THE COURT: 19.

17 JUROR NO. 56: 56.

18 THE COURT: 56.

19 JUROR NO. 46: 46.

20 THE COURT: 46.

21 JUROR NO. 37: 37.

22 THE COURT: 37.

23 JUROR NO. 7: 7.

24 THE COURT: 7.

25 JUROR NO. 54: 54.

1 THE COURT: 54.

2 JUROR NO. 18: 18.

3 THE COURT: 18.

4 Next question. Do any of you work for a company
5 that performs maintenance on large trucks?

6 30.

7 JUROR NO. 19: 19.

8 THE COURT: 19.

9 Next question. Do any of you work for a company
10 that sells parts to truck manufacturers or truck suppliers?

11 30.

12 Okay. Anyone else?

13 (No audible response.)

14 THE COURT: All right. We're down to our last
15 two questions that generally deal with whether any of you
16 have any concerns, whether they're physical concerns, time
17 constraints, whatever. If you have any concern about
18 serving as a juror in this lawsuit, you need to stand up and
19 give us your number so we can talk to you about it. So
20 answer one of these questions. It does not matter which
21 one. Just answer one of them "yes" so we can talk to you.

22 The first of these questions is, do you have any
23 special disability or problem that would make it difficult
24 or impossible for you to serve as a member of the jury in
25 this case?

1 JUROR NO. 25: 25.

2 THE COURT: 25.

3 JUROR NO. 60: 60.

4 THE COURT: 60.

5 JUROR NO. 32: 32.

6 THE COURT: 32.

7 JUROR NO. 1: 1.

8 THE COURT: 1.

9 JUROR NO. 20: 20.

10 THE COURT: 20.

11 JUROR NO. 17: 17.

12 THE COURT: 17.

13 JUROR NO. 21: 21.

14 THE COURT: 21.

15 JUROR NO. 49: 49.

16 THE COURT: 49.

17 JUROR NO. 76: 76.

18 THE COURT: 76. I'm old fashioned to think of

19 76 Trombones when I hear that number, but that's just me.

20 Yes?

21 JUROR NO. 4: 4.

22 THE COURT: 4.

23 Anyone else?

24 JUROR NO. 78: 78.

25 THE COURT: 78.

1 Last question. Do you know of any other matter
2 which you believe should be called to the Court's attention
3 as having some bearing upon your qualifications or ability
4 to sit as a juror, or which you think may prevent you from
5 rendering a fair and impartial verdict based solely upon the
6 evidence and my instructions as to the law?

7 JUROR NO. 3: 3.

8 THE COURT: 3.

9 JUROR NO. 42: 42.

10 THE COURT: 42.

11 JUROR NO. 45: 45.

12 THE COURT: 45.

13 Anyone else?

14 All right. We have quite a few people who
15 answered at least one of these questions affirmatively.
16 We're going to call them in numerical order back to the jury
17 room to speak with counsel and with me. If, during this
18 period of time, you think of something that you want to
19 address with the Court, just get my staff's attention and we
20 will call you back at the end of the folks who answered
21 initially. All right?

22 Thank you very much, counsel.

23 (The following occurred in the jury room.)

24 THE COURT: What I'm going to do is with my
25 staff go through all the jurors who answered questions so

1 we're all on the same page with respect to who comes back.

2 I will ask the first followup questions and leave counsel to
3 follow up with that.

4 I don't accept -- I don't talk about excuses for
5 cause until the end. Usually, I mean, we don't have any
6 problems, because we have 52 available for cause, but when
7 we are closer than that, I like to prioritize.

8 So, anyway, if someone has answered one of our
9 last questions, which means they have a general problem with
10 serving, I usually start with that. If it seems like a good
11 reason, let's not spend a whole lot of time talking about
12 any other conflicts they have because they're going to be
13 excused anyway. Okay? Good.

14 All right. Are we all set? Juror 1 answered
15 1C, 8 and 13.

16 Juror 2, 1D.

17 Juror 3, 2, 3, and 14.

18 Juror 4, 1D, 3, 6, 8, 13.

19 Juror 7, 10.

20 Juror 15, 8.

21 Juror 17, 13.

22 Juror 18, 10.

23 Juror 19, 10 and 11.

24 Juror 20, 13.

25 Juror 21, who wasn't supposed to be here, a late

1 show, 1A, 1D and 13.

2 Juror 25, 1B and C, 2 and 13.

3 Juror 28 answered 8.

4 Juror 29 answered 1A, B, C and D.

5 Juror 30, who gets our prize today, answered 1A,
6 C, D, 2, 3, 8, 10, 11, 12.

7 Juror 32 answered 13.

8 Juror 33 answered 1C, 1D and 8.

9 Juror 36 answered 1C, 1D, 8 and 10.

10 Juror 37 answered 10.

11 Juror 39 answered 7.

12 Juror 42 answered 8 and 14.

13 Juror 45 answered 14.

14 Juror 46 answered 8 and 10.

15 Juror 49 answered 7 and 13.

16 Juror 51 answered 3.

17 Juror 53 answered 1C and 8.

18 Juror 54 answered 10.

19 Juror 56 answered 1C, 1D, 9 and 10.

20 Juror 57 answered 1A and 7.

21 Juror 60 answered 2, 7 and 13.

22 Juror 65 answered 1A, 1C.

23 Juror 66 answered 1A, 1B, 1C.

24 Juror 69 answered 1C and 2.

25 Juror 70 answered 1D and 2.

Juror No. 1 - voir dire

1 Juror 76 answered 13.

2 Juror 78 answered 13.

3 Juror 79 answered 1C and 8.

4 DEPUTY CLERK: And, Judge, John Trickey sent me
5 an e-mail stating that there was a typo on number 75's last
6 name. It's Bryant rather than Tryant.

7 THE COURT: All right. So he shouldn't have
8 been assigned 75, but we'll give it to him anyway. Okay.

9 All right. We'll bring them in one at a time.
10 And, Val, I will try to remember to announce what juror
11 numbers they are when they come in for the record.

12 (Prospective juror enters juryroom.)

13 Hi. How are you? I'm going to have you sit
14 here next to me. You are Juror No. 1?

15 JUROR NO. 1: Yes, ma'am.

16 THE COURT: And you answered a few questions.
17 Let me start with our last question, which was having some
18 concerns about serving as a juror in this case.

19 JUROR NO. 1: Yes. I recently had congestive
20 heart failure, so I have to take a lot of water pills, so
21 sometimes it's one or five minutes, you know. It depends
22 who how often I have to go.

23 The other one is, another concern I have is I
24 don't know if I would be really good because I have a
25 distaste for lawyers and -- well, you know, you think it's

Juror No. 1 - voir dire

1 funny, but I had my house done and they stood up and lied
2 about me. I've had a disgust for them ever since.

3 THE COURT: All right. Well, we take breaks
4 every hour-and-a-half and try to accommodate jurors, but you
5 think with the medication you are on that it would still be
6 a very uncomfortable experience for you to sit in the jury?

7 JUROR NO. 1: Probably because I have to take
8 40 milligrams twice a day.

9 THE COURT: All right. And, in addition to
10 that, you've got some mental reservations about being able
11 to be an impartial juror because you don't like the process
12 at all?

13 JUROR NO. 1: Yes.

14 THE COURT: All right.

15 JUROR NO. 1: I don't like lawyers.

16 THE COURT: All right. Well, I won't comment on
17 that, but you also -- let me just, for the record, you also
18 answered two other of our questions.

19 JUROR NO. 1: Well, I'm not sure if I answered
20 those right.

21 THE COURT: All right. The subject areas. Was
22 there a subject area that you had some experience in? Do
23 you recall?

24 JUROR NO. 1: Maintenance. Truck maintenance.

25 THE COURT: Was that a job or --

Juror No. 1 - voir dire

1 JUROR NO. 1: Job.

2 THE COURT: And how long did you --

3 JUROR NO. 1: In the truck maintenance area?

4 THE COURT: Yes.

5 JUROR NO. 1: Probably about 36 years.

6 THE COURT: All right. And one of the first
7 questions was whether you ever had any dealings with or
8 relied financially in any way on any of the listed?

9 JUROR NO. 1: No, no. I must have
10 misinterpreted the question.

11 THE COURT: All right. Fine.

12 Are there any followup questions by counsel of
13 this juror?

14 MR. RUYAK: Not from our side.

15 MR. FASTOW: No.

16 THE COURT: Thank you very much. Appreciate it.
17 And you can let the next person in.

18 JUROR NO. 1: All right.

19 THE COURT: Thank you.

20 (Prospective juror exits juryroom.)

21 THE COURT: I don't think he's going to be one
22 of our jurors.

23 (Prospective juror enters juryroom.)

24 THE COURT: Hi. How are you? If you could have
25 a seat here, next to me. You should be Juror No. 2.

Juror No. 2 - voir dire

1 JUROR NO. 2: That's correct.

2 THE COURT: And you answered one of our
3 questions, and that is whether you, a family member, or
4 anyone close to you had ever had any experience with the
5 products of any of the listed companies or had any strong
6 feelings, positive or negative, about any of the companies?

7 JUROR NO. 2: I owned a Chris-Craft boat in the
8 early 80s that had an out-drive on it that was made by
9 Eaton. I believe it was Eaton Gear Corporation, or Eaton
10 Company. And I dealt with the company, trying to get parts
11 to fix it up. It was an old boat.

12 THE COURT: An old boat. Was it good
13 experience, bad experience? Would your experience make it
14 difficult for you to be impartial in this case?

15 JUROR NO. 2: I don't think so. I was fairly
16 young, so I didn't have money to buy parts, but, you know,
17 so I would say it wasn't positive or negative.

18 THE COURT: All right. Just a fact?

19 JUROR NO. 2: Just a fact. I just bring it up.
20 That's all.

21 THE COURT: All right. Let's see if counsel
22 have any followup questions. Before I ask, when was this?
23 How long ago was this?

24 JUROR NO. 2: I would say approximately 1983.

25 THE COURT: All right. So we're going back a

Juror No. 2 - voir dire

1 little ways. Let's see if plaintiffs' counsel have any
2 follow up?

3 MR. FASTOW: Did that experience leave you with
4 any attitude, positively or negatively, towards Eaton?

5 JUROR NO. 2: No.

6 THE COURT: Or towards part component
7 manufacturers, generally?

8 A JUROR: I guess I just became aware that what
9 the company was at that time. I had never heard of it until
10 that point, and then I realized that they made gears and,
11 you know, automotive-type gearing. But it's not really
12 positive or negative, as far as, oh, they ripped me off, or
13 they wouldn't fix my part. It was just an old boat I was
14 trying to put back together and, you know, apparently these
15 out-drives, no matter who makes them, have issues. So I
16 mean I didn't direct it towards that company or any other
17 company.

18 MR. FASTOW: Since you learned about Eaton, have
19 you followed it or paid particular attention to them, going
20 on with Eaton?

21 JUROR NO. 2: No. In.

22 THE COURT: Anything?

23 MR. RUYAK: No, your Honor.

24 THE COURT: All right.

25 MR. FASTOW: Do you have any attitude towards

Juror No. 3 - voir dire

1 the quality of the parts you got from Eaton?

2 JUROR NO. 2: I actually didn't purchase parts.
3 I was informed they were available at that time but I never
4 actually purchased them. I didn't have a lot of money. I
5 just made do with what I had at that time.

6 THE COURT: All right. Thank you very much.
7 Appreciate it.

8 JUROR NO. 2: All right.

9 MR. RUYAK: Thank you.

10 (Prospective juror exits juryroom.)

11 * * *

12 (Prospective juror enters juryroom.)

13 THE COURT: Hi. How are you? If you could have
14 a seat next to me.

15 JUROR NO. 3: Thank you.

16 THE COURT: And you should be Juror 3.

17 JUROR NO. 3: That's right.

18 THE COURT: You answered a couple of questions,
19 but let me start with the fact you answered one of our last
20 questions affirmatively. Can you explain that?

21 JUROR NO. 3: Yeah. I'm currently a seasonal
22 employee of the State of Delaware, and I'm paid on an
23 hourly basis. If I don't work, I don't get paid. And the
24 compensation provided by the court will not cover the
25 expenses that I have.

Juror No. 3 - voir dire

1 THE COURT: Okay.

2 JUROR NO. 3: I have a wife and two kids.

3 THE COURT: So if we're talking about a 16-day
4 trial, that's a substantial --

5 JUROR NO. 3: Absolutely.

6 THE COURT: The first questions you answered I
7 think affirmatively had to do with the list of additional
8 companies?

9 JUROR NO. 3: Yes. I didn't know which one was
10 the appropriate one, but I know someone at Morris Nichols.
11 I believe I do. Morris Nichols.

12 THE COURT: All right.

13 JUROR NO. 3: I grew up in Seaford, and Dave
14 Harris I believe is a partner there?

15 MR. REID: Correct.

16 JUROR NO. 3: I know him and am very good
17 friends with his wife's family, especially.

18 THE COURT: All right.

19 JUROR NO. 3: And I know an associate, Ted
20 Kittila.

21 THE COURT: All right.

22 JUROR NO. 3: That's it.

23 THE COURT: That's it. All right.

24 Any followup questions for this juror from
25 plaintiffs' counsel?

Juror No. 4 - voir dire

1 MR. RUYAK: No, your Honor.

2 MR. FASTOW: No, your Honor.

3 THE COURT: Thank you very much. Appreciate it.

4 (Prospective juror exits juryroom.)

5 THE COURT: Given the fact that we have lots of
6 people, people like this who are a financial hardship --

7 MR. RUYAK: Yes. They have to worry about
8 themselves.

9 (Prospective juror enters juryroom.)

10 THE COURT: Hi. How are you?

11 JUROR NO. 4: Hi.

12 THE COURT: If you could have a seat next to me.
13 You should be Juror No. 4?

14 JUROR NO. 4: Yes.

15 THE COURT: And you answered a variety of
16 questions.

17 JUROR NO. 4: Yes.

18 THE COURT: But you answered one of our last
19 questions affirmatively, so let's start with that.

20 JUROR NO. 4: Okay.

21 THE COURT: You have some concerns about serving
22 as a juror?

23 JUROR NO. 4: Yes.

24 THE COURT: Can you let us know?

25 JUROR NO. 4: Yes. I do not have a vehicle that

Juror No. 4 - voir dire

1 runs. I'm 89.6 miles away from here and I had to borrow a
2 car to gets here. There's no public transportation and the
3 cost of a taxi is prohibitive.

4 THE COURT: All right. So this would truly be a
5 hardship for you to get here?

6 JUROR NO. 4: Absolutely. It took me over two
7 hours this morning. I can't keep asking to borrow a car.

8 THE COURT: Right.

9 JUROR NO. 4: Mine just doesn't -- ain't going
10 to make it.

11 THE COURT: Let me briefly go over some of your
12 other answers.

13 JUROR NO. 4: Mm-hmm.

14 THE COURT: The first was, any experience with
15 the products of any of companies listed?

16 JUROR NO. 4: You said positive or negative.

17 THE COURT: Yes.

18 JUROR NO. 4: I owned a Jeep, DaimlerChrysler
19 Jeep. That's it.

20 THE COURT: Okay. Positive or negative?

21 JUROR NO. 4: Positive.

22 THE COURT: All right. Just out of curiosity.

23 JUROR NO. 4: Two of them, as a matter of fact.

24 THE COURT: Law firms?

25 JUROR NO. 4: Yes. Tunnell represented me.

Juror No. 4 - voir dire

1 THE COURT: Okay. And how long ago? That must
2 have been a while.

3 JUROR NO. 4: Ten years.

4 THE COURT: Ten years? All right.

5 Six. Plaintiff/defendant/witness in a civil
6 lawsuit?

7 JUROR NO. 4: Yes. I have given -- I have been
8 in District Court, U.S. District Court giving testimony. I
9 have been a defendant in a civil lawsuit in Sussex County.

10 THE COURT: Okay. Have any of those experiences
11 made it difficult for you to be -- would any of those
12 experiences make it difficult for you to be an impartial
13 juror in this case?

14 JUROR NO. 4: Probably.

15 THE COURT: You had some bad experiences through
16 this?

17 JUROR NO. 4: Yes, I did, in mediation.

18 THE COURT: A bad experience in mediation?

19 JUROR NO. 4: Yes.

20 THE COURT: That's not good.

21 JUROR NO. 4: No.

22 THE COURT: All right. Subject areas, the last
23 thing we're going to ask you about.

24 JUROR NO. 4: Subject areas?

25 THE COURT: Yes. I think you answered yes, that

Juror No. 7 - voir dire

1 you had some experience or training in any of the listed
2 subject matters? Do you recall that? Sorry. Subject
3 areas. Trucking industry, antitrust.

4 JUROR NO. 4: Yes. Monopolies, in general.

5 THE COURT: All right.

6 JUROR NO. 4: I have a very, very negative
7 opinion of monopolies.

8 THE COURT: Okay.

9 JUROR NO. 4: The liquor industry in this state
10 is a monopoly. You are forced to buy from one company.
11 They price fix, they gouge, and I'm way against monopolies.

12 THE COURT: Okay. Let's see if the lawyers have
13 any followup questions. Anything?

14 MR. FASTOW: No, your Honor.

15 THE COURT: Anything from defense?

16 MR. RUYAK: No.

17 THE COURT: Thank you very much. Appreciate it.

18 (Prospective juror exits juryroom.)

19 * * *

20 (Prospective juror enters juryroom.)

21 THE COURT: All right. Hi. How are you?

22 Please have a seat next to me.

23 You should be Juror 7.

24 JUROR NO. 7: Yes, ma'am.

25 THE COURT: And you answered one of our

Juror No. 7 - voir dire

1 questions affirmatively. And the question was, do you work
2 for a company that buys or leases large trucks?

3 JUROR NO. 7: Yes, ma'am.

4 THE COURT: And can you tell us what company
5 that is?

6 JUROR NO. 7: Yes. It's Nixon Medical Uniform
7 Service and Medical Wear. And we lease trucks in four
8 different states to deliver medical supplies or medical
9 clothing to outpatient health care.

10 THE COURT: Now, does your particular position
11 have something to do with that part of the business?

12 JUROR NO. 7: I'm the corporate H.R. Director,
13 ma'am. No, ma'am.

14 THE COURT: Okay.

15 JUROR NO. 7: I don't purchase the vehicles.
16 I'm aware of it because we do purchase and lease vehicles.

17 THE COURT: All right. Is there anything about
18 your company's use of leased trucks -- would anything about
19 that make it difficult for you to be an impartial juror in
20 this case?

21 JUROR NO. 7: No, ma'am.

22 THE COURT: Let's see if the lawyers have any
23 followup questions for you.

24 Anything?

25 MR. FASTOW: In your job, do you hear or learn

Juror No. 7 - voir dire

1 about the leased trucks, how they do, whether they have
2 problems, so forth?

3 JUROR NO. 7: I do. From a safety perspective
4 more than anything else, whether or not vehicles are being
5 appropriately maintained, if there are any issues with the
6 maintenance of those vehicles, with regard to how much of a
7 safety issue it creates for a driver.

8 MR. FASTOW: So it would be fair to say that you
9 are involved in issues of vehicle operation defects and so
10 forth?

11 JUROR NO. 7: Yes, sir.

12 THE COURT: But none of the companies that are
13 involved here are those --

14 JUROR NO. 7: No, ma'am.

15 THE COURT: -- that you've learned about through
16 your experience in the job?

17 JUROR NO. 7: Yes, ma'am.

18 THE COURT: All right. Anything else from
19 plaintiff?

20 MR. FASTOW: No.

21 THE COURT: Anything from defendant's counsel?

22 MR. RUYAK: I don't think so.

23 THE COURT: Thank you very much.

24 JUROR NO. 7: Thank you.

25 (Prospective juror exits juryroom.)

Juror No. 15 - voir dire

1 * * *

2 (Prospective juror enters juryroom.)

3 THE COURT: Hi. How are you?

4 JUROR NO. 15: Good. How are you?

5 THE COURT: If you could have a seat next to me.

6 I think you answered one question, and that had
7 to do with a list of subject areas and whether you had any
8 training or experience in them?

9 JUROR NO. 15: I just had education on antitrust
10 laws briefly in college.

11 THE COURT: Okay. So it was a course or part of
12 a course?

13 JUROR NO. 15: Part of a course.

14 THE COURT: Okay.

15 JUROR NO. 15: Business law.

16 THE COURT: Business law. And do you think
17 that, assuming you recall anything you learned in that
18 course, do you think you could set that aside and follow my
19 instructions as to the law in this case?

20 JUROR NO. 15: Yes.

21 THE COURT: Let's see if the lawyers have any
22 followup questions.

23 Anything from counsel?

24 MR. FASTOW: I'm sorry. What number?

25 THE COURT: I'm sorry. Juror 15. I'm supposed

Juror No. 15 - voir dire

1 to identify the jurors when they come in and I forgot to do
2 that.

3 Anything else?

4 MR. FASTOW: How long did you spend studying
5 antitrust law?

6 JUROR NO. 15: It might have been over a week, a
7 little over a week.

8 MR. FASTOW: Have fun?

9 JUROR NO. 15: It was okay.

10 MR. FASTOW: Do you remember in particular, a
11 recollection of particular rules, doctrines, and so forth
12 from that?

13 JUROR NO. 15: Some. The Clayton Act. I think
14 there was like Sherman ... Antitrust ... Doctrine. Not a
15 whole lot.

16 MR. RUYAK: Pretty good. Pretty good.

17 THE COURT: We'll give you an A.

18 MR. RUYAK: That's pretty good, one week.

19 MR. FASTOW: I take it, there's nothing really
20 further that you remember from antitrust besides sort of the
21 names of laws and so are forth?

22 JUROR NO. 15: Discussion of monopolies.

23 MR. FASTOW: Okay.

24 THE COURT: Anything from defendant's counsel?

25 MR. RUYAK: I don't think so.

Juror No. 17 - voir dire

1 THE COURT: Thank you very much.

2 JUROR NO. 15: You're welcome.

3 (Prospective juror exits juryroom.)

4 * * *

5 (Prospective juror enters juryroom.)

6 THE COURT: Hi. How are you? Take a seat next
7 to me.

8 JUROR NO. 17: Sure. Thank you.

9 THE COURT: And you should be Juror 17?

10 JUROR NO. 17: Yes, ma'am.

11 THE COURT: And you answered one question and
12 that was one of our last questions. Can you explain that
13 for us?

14 JUROR NO. 17: Actually, there are two issues,
15 your Honor.

16 THE COURT: Okay.

17 JUROR NO. 17: The first of which is, I think at
18 one point, you asked earlier than this last question if I
19 had ever been a defendant in a civil suit?

20 THE COURT: Right.

21 JUROR NO. 17: And I have.

22 THE COURT: Okay.

23 JUROR NO. 17: I was a defendant. I spent
24 30 years in the insurance business and I was a defendant in
25 a suit where HUD was alleging some wrongful actions by

Juror No. 17 - voir dire

1 several agents and I was one of them. So I didn't respond
2 positively to that, and part of the reason for that is --

3 THE COURT: Take your time, sir.

4 JUROR NO. 17: I'm not focused. My best friend
5 was killed last night.

6 THE COURT: Oh, heavens. All right.

7 JUROR NO. 17: In an automobile accident. I'm
8 not all here today.

9 THE COURT: All right.

10 JUROR NO. 17: I didn't expect that, attending a
11 funeral.

12 THE COURT: Probably next week some time?

13 JUROR NO. 17: Yes.

14 THE COURT: All right.

15 JUROR NO. 17: Yes, ma'am. I apologize.

16 THE COURT: That's all right. Let's see if
17 there are any questions for you by the lawyers.

18 Anything, counsel?

19 MR. FASTOW: No.

20 MR. RUYAK: No, your Honor.

21 THE COURT: Thank you very much.

22 MR. RUYAK: Thank you.

23 (Prospective juror exits juryroom.)

24 MR. RUYAK: He's also coming all the way from
25 Rehoboth. That's a trek.

Juror No. 18 - voir dire

1 (Prospective juror enters juryroom.)

2 THE COURT: Hi. How are you?

3 JUROR NO. 18: How are you?

4 THE COURT: Have a seat next to me, if you
5 would.

6 And you are Juror 18?

7 JUROR NO. 18: That's correct.

8 THE COURT: And you answered our question about
9 working for a company that buys or leases large trucks?

10 JUROR NO. 18: That I'm unsure of. I work for
11 Wilmington Trust and I know we're in the direct, indirect
12 automobile financing, so we finance autos, RV's, school
13 buses, and I'm not sure what exactly brands or products.

14 THE COURT: Okay. Now, are you directly
15 involved in that aspect of the business?

16 JUROR NO. 18: I am a credit strategies analyst.
17 So I would be involved with developing the policy, you know,
18 what, who to approve for loans for that.

19 THE COURT: Now, are these both individuals in
20 businesses who are applying for --

21 JUROR NO. 18: For credit? Yes. So it could be
22 individuals or businesses applying for credit. And I work
23 on the policies, you know, gauging, like, what risk factors
24 for the loans and setting up general policies overall.

25 THE COURT: And have you -- in assessing the

Juror No. 18 - voir dire

1 risk factors, do you look at the vehicles and their
2 manufacturers and all of that? Do you get into that level
3 of detail?

4 JUROR NO. 18: The applications, on the
5 applications, and there are large amounts of data, and I
6 mean I'm sure we capture everything, but to say we make
7 decisions based on which brand of vehicle you're financing,
8 that's not something to my knowledge.

9 THE COURT: Is there anything about your job and
10 your experience that would make it difficult for you to be
11 an impartial juror in this case?

12 JUROR NO. 18: No, not that I'm aware of.

13 THE COURT: Let's see if the lawyers have any
14 followup questions.

15 Anything, Mr. Fastow?

16 MR. FASTOW: Does your job bring you into
17 contact with information about particular truck
18 manufacturers or truck component manufacturers?

19 JUROR NO. 18: No, not to -- I'm just -- I just
20 deal with things on an aggregate level. Of course, you
21 know, in my job, I will be privy to all the application data
22 and we just set general policy. Not the specific
23 manufacturers.

24 MR. FASTOW: And the policy does not distinguish
25 among particular types of manufacturers or types of trucks?

Juror No. 18 - voir dire

1 JUROR NO. 18: No. I think we do have different
2 criteria based on whether you're financing a marine, a boat,
3 an RV, or an automobile, different, like, LTVs,
4 loan-to-value ratios, credit scores and so forth.

5 But as particular brand, not that I'm aware of.

6 MR. FASTOW: Not as to particular, for example,
7 types of trucks versus other types of trucks?

8 JUROR NO. 18: No, not to my knowledge.

9 THE COURT: Anything from defendant?

10 MR. RUYAK: I take it basically what you are
11 doing is looking at the creditworthiness of a purchase of a
12 vehicle?

13 JUROR NO. 18: Current. Right.

14 MR. RUYAK: Rather than the manufacturer or the
15 seller?

16 JUROR NO. 18: Right. That's not to say -- I
17 mean, let me be clear. Wilmington Trust does do what they
18 call floor plan financing.

19 MR. RUYAK: Okay.

20 JUROR NO. 18: So they will finance, you know,
21 for, you know, a dealer in the area, and provide the
22 financing for all of the vehicles on the floor.

23 MR. RUYAK: Are you aware of any of the dealers
24 that sell large trucks, like 18 wheelers, and stuff like
25 that?

Juror No. 19 - voir dire

1 JUROR NO. 18: No, not to my knowledge.

2 MR. RUYAK: Okay.

3 JUROR NO. 18: We have so many dealers. All I
4 know is the common automobile dealers.

5 THE COURT: Anything else?

6 MR. FASTOW: Are you involved in the floor
7 planning part of the business?

8 JUROR NO. 18: I have not been. I've just
9 recently started it about three months ago. But it's not to
10 say in the future, I won't be. But not to this date.

11 THE COURT: All right. Thank you very much.
12 Appreciate your time.

13 JUROR NO. 18: Thank you.

14 (Prospective juror exits juryroom.)

15 * * *

16 (Prospective juror enters juryroom.)

17 THE COURT: Hi. How are you?

18 JUROR NO. 19: Good morning.

19 THE COURT: If you could have a seat next to me.

20 JUROR NO. 19: Okay.

21 THE COURT: You are Juror 19?

22 JUROR NO. 19: Yes.

23 THE COURT: And you answered two of our
24 questions, which were, do you work for a company that buys
25 or leases large trucks or for a company that maintains or

Juror No. 19 - voir dire

1 performs maintenance on large trucks? Could you explain
2 your answer?

3 JUROR NO. 19: I work for the United States
4 Postal Service.

5 THE COURT: Okay.

6 MR. RUYAK: That's for sure.

7 THE COURT: And how long have you worked for the
8 Postal Service?

9 JUROR NO. 19: 18 years.

10 THE COURT: 18? And do you -- in your role as
11 an employee, do you have any responsibility for, or even
12 driving any of the trucks? I mean, what is your interaction
13 with the trucks?

14 JUROR NO. 19: No, I don't have any. My role
15 is, I'm a program manager, but we have a completely
16 different procurement department.

17 THE COURT: Okay.

18 JUROR NO. 19: That purchases and leases the
19 vehicles.

20 THE COURT: So you don't have any specific
21 knowledge about that?

22 JUROR NO. 19: No, I don't.

23 THE COURT: Is there anything about your role as
24 an employee of a company that does lease a lot of trucks, is
25 there anything about your role, your experience that would

Juror No. 20 - voir dire

1 make it difficult for you to sit as an impartial juror in
2 this case?

3 JUROR NO. 19: No.

4 THE COURT: Let's see if the lawyers have any
5 followup questions for you.

6 JUROR NO. 19: Okay.

7 THE COURT: Mr. Fastow?

8 MR. FASTOW: No.

9 MR. RUYAK: I don't have any.

10 THE COURT: Thank you very much.

11 MR. RUYAK: Thank you.

12 (Prospective juror exits juryroom.)

13 * * *

14 (Prospective juror enters juryroom.)

15 THE COURT: Hi. How are you?

16 JUROR NO. 20: Hello.

17 THE COURT: If you could have a seat next to me.

18 And you are Juror 20?

19 JUROR NO. 20: Yes, ma'am.

20 THE COURT: You answered one of our final

21 questions affirmatively. Can you explain your response?

22 JUROR NO. 20: It would be a hardship for me. I

23 work a full-time job, and I just recently started a

24 part-time job three weeks ago. I'm actually on a

25 probationary period. I'm not paid for part-time, so that

Juror No. 21 - voir dire

1 would be a hardship for the income. And I also have the
2 instance of, I have a first grader and a third grader that
3 get home at 4:00 o'clock off the bus. Nobody would be there
4 to get them off the bus.

5 THE COURT: All right. Let's see if the lawyers
6 have any followup questions for you.

7 Anything from counsel for plaintiff?

8 MR. FASTOW: No.

9 THE COURT: Counsel for defendant?

10 MR. RUYAK: No.

11 THE COURT: All right. Thank you very much.

12 JUROR NO. 20: Okay.

13 THE COURT: She's the one who wasn't even
14 supposed -- wasn't even here initially. All right. Good
15 for her for showing up.

16 (Prospective juror exits juryroom.)

17 * * *

18 (Prospective juror enters juryroom.)

19 Hi. How are you?

20 JUROR NO. 21: Hello.

21 THE COURT: If you could have a seat next to me,
22 please. And you are Juror 25?

23 JUROR NO. 21: 21.

24 THE COURT: 21. Oh, okay. I'm sorry.

25 JUROR NO. 21: That's okay.

Juror No. 21 - voir dire

1 THE COURT: I have the wrong number here.

2 You answered a couple of questions. You also
3 answered one of our final questions affirmatively. Can you
4 explain your response to that, one of the last questions,
5 about having concerns?

6 JUROR NO. 21: Well, I teach at a small
7 Christian school, four-year old kindergarten class, and to
8 take -- the possibility of 16 days out of that class time is
9 just impossible. The continuity of the class will just fall
10 apart. We've only been in school -- today is the 11th day,
11 so I just don't feel that I have that time, in good
12 conscience, to give.

13 THE COURT: All right. Let me just briefly go
14 over, you also answered some of the initial questions about
15 the list of companies?

16 JUROR NO. 21: Mm-hmm.

17 THE COURT: Can you tell us what your responses
18 are?

19 JUROR NO. 21: My father was employed by
20 Chrysler. At the time, that was Chrysler. My uncle was
21 employed there. I just don't feel that they took care of my
22 father when he was ill and I just don't think that -- in
23 good conscience, I could say they were wrong.

24 THE COURT: Okay. All right. More importantly,
25 though, as a teacher of this class of kindergarten,

Juror No. 21 - voir dire

1 four-year olds -- are they kindergarten or pre-K?

2 JUROR NO. 21: It's a pre-K but it's an actual
3 class.

4 THE COURT: Right. Right.

5 JUROR NO. 21: They get language, math. We
6 learn to read.

7 THE COURT: All right. That it would be
8 difficult for you to take this time off and do them justice?

9 JUROR NO. 21: Yes.

10 THE COURT: All right. Let's see if the lawyers
11 have any followup questions.

12 Anything from counsel?

13 MR. FASTOW: No.

14 MR. RUYAK: No, your Honor.

15 THE COURT: All right. Thank you very much.

16 JUROR NO. 21: Thank you. Just go back and sit
17 down?

18 THE COURT: Yes. We have to go through the
19 whole process.

20 JUROR NO. 21: Okay. That's fine.

21 (Prospective juror exits juryroom.)

22 * * *

23 (Prospective juror enters juryroom.)

24 THE COURT: All right. She was the one who
25 didn't show up, actually.

Juror No. 25 - voir dire

1 Hi. How are you?

2 JUROR NO. 25: I'm good. How are you?

3 THE COURT: If you could have a seat next to me.
4 You're Juror 25?

5 JUROR NO. 25: I am.

6 THE COURT: And although you answered quite a
7 few questions, you also answered one of our last questions,
8 so let me start with that.

9 JUROR NO. 25: Yes. I am the sole provider for
10 three young children. My husband ironically travels and he
11 covers the trucking industry for a fund that he manages
12 money for.

13 THE COURT: All right. So when you say you're
14 the sole provider, that means that -- are they younger
15 children and you have to be there when they go to school?

16 JUROR NO. 25: Exactly. I have a 5, an 8 an
17 11-year old, and I don't have family in the area.

18 THE COURT: Okay.

19 JUROR NO. 25: And he is scheduled to be in
20 Colorado next week.

21 THE COURT: All right. And just for purposes of
22 the record --

23 JUROR NO. 25: Sure.

24 THE COURT: -- when you say he covers the
25 trucking industry for an investment firm?

Juror No. 25 - voir dire

1 JUROR NO. 25: He is an investment manager, and
2 one of his areas of expertise is the trucking industry.

3 THE COURT: All right.

4 JUROR NO. 25: He is invested in the industry
5 and also in parts market for that industry.

6 THE COURT: All right. Are these companies
7 familiar to you, then?

8 JUROR NO. 25: I looked through the list. I
9 don't know if he currently is invested in any of these, but
10 I know that over a period of time, he has been invested in.

11 THE COURT: All right. Let's see if the lawyers
12 have any followup questions.

13 Anything from counsel?

14 MR. FASTOW: No, your Honor.

15 THE COURT: Anything from counsel for defendant?

16 MR. RUYAK: Any particular names on that lists
17 that you recall?

18 JUROR NO. 25: There was no name that came to me
19 and I went, "aha."

20 THE COURT: All right. Thank you very much.
21 Appreciate it.

22 JUROR NO. 25: Thank you.

23 (Prospective juror exits juryroom.)

24 * * *

25 (Prospective juror enters juryroom.)

Juror No. 28 - voir dire

1 THE COURT: Hi. How are you?

2 JUROR NO. 28: Good. How are you?

3 THE COURT: If you could have a seat next to me.

4 And I believe you are Juror 28?

5 JUROR NO. 28: Yes.

6 THE COURT: Okay. And you answered one of our

7 questions, and that had to do with a list of subject areas

8 and whether you have education, experience, training?

9 JUROR NO. 28: I'm a social studies teacher,

10 civics. We teach government antitrust.

11 THE COURT: What grade is that that you are

12 teaching?

13 JUROR NO. 28: High school students.

14 THE COURT: We just heard what pre-K people were

15 -- I wish we hadn't gone that far.

16 JUROR NO. 28: No, Ninth and Tenth Grade.

17 THE COURT: So you are familiar with the --

18 JUROR NO. 28: Yes.

19 THE COURT: -- the laws, to some extent?

20 JUROR NO. 28: To some extent. Enough to teach

21 high school students.

22 THE COURT: All right. Do you think that you

23 could set aside what you teach, basically, and follow my

24 instructions as to the law as to these areas?

25 JUROR NO. 28: Yes.

Juror No. 29 - voir dire

1 THE COURT: Let me see if counsel have any
2 followup questions for you? Anything?

3 MR. FASTOW: No.

4 THE COURT: Defendant's counsel?

5 MR. RUYAK: No.

6 THE COURT: Thank you very much.

7 JUROR NO. 28: Thank you.

8 THE COURT: If she teaches civics, this will be
9 a great experience for her.

10 (Prospective juror exits juryroom.)

11 * * *

12 (Prospective juror enters juryroom.)

13 THE COURT: Have a seat next to me. You're
14 Juror 29?

15 JUROR NO. 29: That's right.

16 THE COURT: You answered all of our first series
17 of questions.

18 JUROR NO. 29: My late husband worked at
19 DaimlerChrysler, and I receive a monthly pension and medical
20 insurance through them.

21 THE COURT: How long was he an employee?

22 JUROR NO. 29: 29 years.

23 THE COURT: 29 years.

24 I will let counsel follow up, because I'm not
25 sure what the relationship is with them. So I will let

Juror No. 29 - voir dire

1 plaintiffs' counsel see if there's --

2 MR. FASTOW: So you are --

3 JUROR NO. 29: I'm Chrysler all the way.

4 MR. FASTOW: Chrysler all the way?

5 JUROR NO. 29: Yes. Dodge. I will never drive
6 anything other than what they make.

7 MR. FASTOW: So if Chrysler or Daimler came up
8 in this case, you would be predisposed in favor of it?

9 JUROR NO. 29: Yes. I'm sorry. Yes. Yeah.
10 They've been very good to me.

11 THE COURT: Good.

12 JUROR NO. 29: And my husband passed away seven
13 years ago and I get medical and a monthly pension for the
14 rest of my life, as long as I don't get married. I don't
15 have any intentions of doing that.

16 THE COURT: Well, it's a good thing your husband
17 wasn't a federal judge, because, trust me, the government
18 does not take people as well as --

19 JUROR NO. 29: Chrysler has been very good to
20 me.

21 THE COURT: Any other questions from counsel?

22 MR. RUYAK: No.

23 MR. FASTOW: No.

24 THE COURT: Thank you very much.

25 JUROR NO. 29: Thank you.

Juror No. 30 - voir dire

1 (Prospective juror exits juryroom.)

2 * * *

3 (Prospective juror enters juryroom.)

4 THE COURT: Hi. How are you? Why don't you
5 have a seat. You win our prize today for answering the most
6 questions.

7 JUROR NO. 30: Sorry.

8 THE COURT: Are they all related? If you tell
9 us one story, that will kind of --

10 JUROR NO. 30: It's where I work.

11 THE COURT: Where do you work?

12 JUROR NO. 30: I work for a local trash hauler,
13 who deals with Harvey Mack. It's Harvey Mack locally here
14 on a daily basis. We work on the trucks in our own shop. I
15 used to work for Harvey & Harvey, who is the owners of
16 Harvey Mack.

17 THE COURT: Right.

18 JUROR NO. 30: Before he sold out.

19 THE COURT: How long have you been --

20 JUROR NO. 30: In trash?

21 THE COURT: Well, in trucks, why don't we say.
22 How long have you been in trucks?

23 JUROR NO. 30: Almost 20 years.

24 THE COURT: All right.

25 JUROR NO. 30: Yes.

Juror No. 30 - voir dire

1 THE COURT: I think I will let counsel ask the
2 followup questions, because they know better what the
3 relationships are. So I will let you start, Mr. Fastow.

4 MR. FASTOW: And you're particularly involved in
5 working on the trucks?

6 JUROR NO. 30: No, I don't work on the trucks.
7 I see all the bills coming from the trucks, and the checks,
8 I have to cut the checks. Also, we've purchased trucks from
9 Mack. That's normally where I get -- where we get our
10 trucks is through them.

11 MR. FASTOW: Through Mack?

12 JUROR NO. 30: Mm-hmm.

13 MR. FASTOW: And if there were expenses for
14 repairs and so forth, you would deal with the expense part
15 of that?

16 JUROR NO. 30: Yes.

17 MR. FASTOW: Do you deal with warranty issues
18 and so forth?

19 JUROR NO. 30: The paperwork, yes. Yes. It
20 comes across my desk. So, yes, I see those, too.

21 MR. FASTOW: Okay.

22 THE COURT: All right. Anything from defendant?

23 MR. RUYAK: Have you seen any paperwork in this
24 case? As the judge said, we're talking about transmissions.
25 Have you seen paperwork and warranty and things related to

Juror No. 30 - voir dire

1 transmissions?

2 JUROR NO. 30: Yes. Not from any of these
3 companies that we deal with.

4 MR. RUYAK: Do you remember any of names of the
5 manufacturers of the transmissions?

6 JUROR NO. 30: No.

7 MR. RUYAK: No?

8 JUROR NO. 30: Sorry.

9 MR. RUYAK: That's okay.

10 JUROR NO. 30: No.

11 MR. RUYAK: That's okay to say no.

12 That's all I have.

13 THE COURT: And the question really is, I mean,
14 will the name Mack come up?

15 MR. RUYAK: Yes your Honor.

16 MR. FASTOW: Yes.

17 THE COURT: And I guess the question is whether
18 you can set aside all this experience you have if Mack comes
19 up in the testimony and make your decision based on what you
20 see and hear in the courtroom and my instructions as to the
21 law and set aside whatever experience or --

22 JUROR NO. 30: Yes.

23 THE COURT: Do you have a very positive feeling
24 about Mack? I mean, is that --

25 JUROR NO. 30: Oh, sure. I mean, I dealt with

Juror No. 32 - voir dire

1 them for almost 20 years.

2 THE COURT: Okay.

3 JUROR NO. 30: So, yeah.

4 THE COURT: All right. I will ask, again,
5 because I didn't ask very artfully, do you think you can be
6 an impartial juror in this case despite your experience?

7 JUROR NO. 30: Yes.

8 THE COURT: All right. Anything else?

9 MR. FASTOW: And do you think you could be
10 impartial with respect to any issues that relate to Mack?

11 JUROR NO. 30: Yes.

12 THE COURT: All right. Thank you very much.

13 JUROR NO. 30: You're welcome.

14 (Prospective juror exits juryroom.)

15 MS. SULLIVAN: Your Honor, she obviously does
16 not place me, but I did work with her in a case. We
17 represented Tri-State.

18 THE COURT: Okay. We'll talk about that when we
19 go over --

20 (Prospective juror enters juryroom.)

21 THE COURT: Hi. How are you?

22 JUROR NO. 32: Hi. I didn't know there were so
23 many people.

24 THE COURT: Yes. It's a little intimidating,
25 but you sit next to me.

Juror No. 32 - voir dire

1 And I believe you're Juror 32?

2 JUROR NO. 32: That's correct.

3 THE COURT: And you answered our last question
4 affirmatively.

5 JUROR NO. 32: The second-to-the-last question.

6 THE COURT: Right.

7 JUROR NO. 32: Yes. It's not me, personally,
8 but I have a son who is a type-one diabetic and it would
9 just be a hardship for me to sit here for 16 days knowing
10 that -- I mean, he's a little bit older, but it just would
11 be hard. My husband works shift and --

12 THE COURT: So you're the primary?

13 JUROR NO. 32: Yes.

14 THE COURT: You're primarily responsible to make
15 sure he's doing what he's supposed to be doing?

16 JUROR NO. 32: When it's a bad day, the nurses
17 are on the phone with me a lot, so that, to me, would be
18 concerning because I feel like I might be distracted and not
19 be able to focus on what is happening.

20 THE COURT: All right. Let's see if the lawyers
21 have any followup questions for you.

22 Anything from counsel?

23 MR. FASTOW: I take it, your son is in school?

24 JUROR NO. 32: Yes. Yes.

25 MR. FASTOW: How old is he?

Juror No. 33 - voir dire

1 JUROR NO. 32: He's 16 now, but he still isn't
2 an independent driver, and there have been times in the past
3 where the nurse have called and aren't comfortable with him
4 just going on the bus, because his numbers are off
5 sometimes.

6 MR. FASTOW: Okay.

7 THE COURT: Anything from defendant's counsel?

8 MR. RUYAK: No.

9 THE COURT: Thank you very much.

10 JUROR NO. 32: I just go?

11 THE COURT: Yes. We have to go through the
12 whole process.

13 JUROR NO. 32: That's fine. I just wanted to
14 make sure.

15 (Prospective juror exits juryroom.)

16 * * *

17 (Prospective juror enters juryroom.)

18 THE COURT: Hello. If you could have a seat
19 next to me.

20 JUROR NO. 33: Okay.

21 THE COURT: And you are Juror 33?

22 JUROR NO. 33: Yes.

23 THE COURT: You answered a couple of our
24 questions affirmatively. One was, had to do with the list
25 of subject areas. Do you recall which subject area you had

Juror No. 33 - voir dire

1 some experience or education or training in?

2 JUROR NO. 33: I guess my husband and I own a
3 family run company, where we assist trucking companies in
4 complying with the federal regulations, so ours is service,
5 maintenance and repair of tractor-trailers, anything over
6 10,000 pounds.

7 THE COURT: There are other worlds out there.

8 JUROR NO. 33: We've been doing this for
9 52 years.

10 MR. TASKIER: Not you, personally?

11 JUROR NO. 33: Not me, personally, no. My
12 father-in-law started the company 52 years ago.

13 THE COURT: You answered some of our first
14 questions affirmatively about having some familiarity with
15 these companies. Can you explain that?

16 JUROR NO. 33: Well, with many of the different
17 trucking companies, they use our forms. We are -- we -- how
18 can I word this? We publish forms to help them stay
19 regulatorily compliant within the Federal Motor Carrier
20 Safety Administration as to what maintenance has to be done,
21 what is required to be done.

22 THE COURT: Okay.

23 JUROR NO. 33: And our forms are compliant. We
24 also have a complete regulatory department that goes out and
25 assists the motor carriers and different companies on these

Juror No. 33 - voir dire

1 compliance issues.

2 THE COURT: Okay. And are there companies that
3 have been listed here that you deal with on a regular basis?

4 JUROR NO. 33: It's the trucks that are bought
5 from these companies that we deal with on a regular basis.

6 THE COURT: Okay.

7 JUROR NO. 33: So, like, Kenworths and those of
8 the world, yes.

9 THE COURT: And do you have any specific
10 experience or knowledge about the transmissions associated
11 with any of these trucks? Truck transmissions are what's --

12 JUROR NO. 33: Only in the sense, for the
13 regulatory compliance of what has to be maintenance on them
14 as well as electronic onboard recorders.

15 THE COURT: Okay. So that's certainly a big
16 ticket item?

17 JUROR NO. 33: Right. If you showed me a
18 transmission, I would have no idea what it was.

19 THE COURT: Okay. All right. Let's see if the
20 lawyers have any followup questions for you.

21 From plaintiffs' counsel?

22 MR. FASTOW: No, your Honor.

23 THE COURT: Defendant's counsel?

24 MR. RUYAK: In the course of that, have you
25 heard of the companies that supply transmissions, like Eaton

Juror No. 33 - voir dire

1 and Meritor the? Do you remember those names?

2 JUROR NO. 33: Only in the sense of the
3 electronic onboard devices to record hours of service. But
4 only in that aspect.

5 THE COURT: And is there anything about your
6 experience that would make it difficult for you to be an
7 impartial juror in this case?

8 JUROR NO. 33: As far as it being antitrust, I
9 don't believe so. You're not talking about a trucking
10 accident, where the regulations are concerned?

11 THE COURT: No.

12 JUROR NO. 33: It is going to hurt my company
13 for me to be away, if it's 16 -- you know, through October.

14 THE COURT: You need to let us know that,
15 because we don't want you sitting in the jury box stressed
16 out because your family's business needs you, and you are
17 not paying attention. So if that's a real concern of yours,
18 you need to let us know.

19 JUROR NO. 33: That is going to be a concern.
20 We are family run. There are 12 employees. I manage six of
21 them, and without me there, my husband has to cover that
22 part of it.

23 THE COURT: Okay.

24 JUROR NO. 33: So there is one of the regulatory
25 people, one of the corporate officers I would be missing.

Juror No. 33 - voir dire

1 THE COURT: All right.

2 JUROR NO. 33: It would put a strain on the
3 company.

4 THE COURT: All right. Any follow-up from
5 counsel at this point?

6 MR. FASTOW: Would you be able to deal with that
7 at nights and evenings or weekends?

8 JUROR NO. 33: No, because our business operates
9 from 8:00 to 5:00, so, at nighttime, it would be hard for me
10 to get back with a customer if they had a regulatory issue.

11 MR. FASTOW: Are there other people who can do
12 that?

13 JUROR NO. 33: They can. It would be my
14 husband, and he would be pulled away from that as well. We
15 would be stressed. We run a very tight ship. That's how we
16 stayed in business for 52 years.

17 THE COURT: Well, congratulations on that.
18 That's wonderful.

19 All right. Thank you very much. Appreciate it.

20 THE WITNESS: Yes.

21 (Prospective juror exits juryroom.)

22 * * *

23 (Prospective juror enters juryroom.)

24 THE COURT: Hi. How are you, sir?

25 JUROR NO. 36: Just fine.

Juror No. 36 - voir dire

1 THE COURT: I'm going to ask you to sit down
2 next to me. You're Juror 36.

3 And you answered a few of our questions. One
4 had to do with the live of companies and whether you had any
5 knowledge of them or relied financially on any of them. Can
6 you let me know what your response was?

7 JUROR NO. 36: Now, just by the list of
8 companies, it's not that I rely on any of them. It's just
9 like with Freightliner and Peterbilt, I've just been
10 affiliated with their trucks.

11 THE COURT: Okay.

12 JUROR NO. 36: So that's the only reason I said
13 yes.

14 THE COURT: Okay. Now, when you say
15 "affiliated," does that mean you've driven them?

16 JUROR NO. 36: Yes.

17 THE COURT: Okay. And how long have you -- did
18 you do that? Have you done that?

19 JUROR NO. 36: Still doing it.

20 THE COURT: You are still doing it?

21 JUROR NO. 36: Right.

22 THE COURT: And how long have you driven a
23 truck?

24 JUROR NO. 36: 20 years.

25 THE COURT: 20 years.

Juror No. 36 - voir dire

1 In the course of your driving trucks, do you get
2 involved with maintenance? Do you know who makes the
3 transmissions in your trucks?

4 JUROR NO. 36: Yes.

5 THE COURT: Okay.

6 JUROR NO. 36: I don't fix them, but I know who
7 makes the transmissions.

8 THE COURT: All right. Are you familiar the
9 with the parties involved in this case?

10 JUROR NO. 36: I'm familiar with Eaton.

11 THE COURT: Eaton. Okay. And have you had good
12 experiences, bad experiences? Do you have an opinion about
13 their product?

14 JUROR NO. 36: Yes.

15 THE COURT: Can you tell us what it is?

16 JUROR NO. 36: Well, I'd say, comparing them as
17 opposed to the other transmissions that I've dealt with, I
18 prefer them.

19 THE COURT: Okay. All right. Now, you also
20 indicated that you had some expertise in the subject areas,
21 or some education and training, in --

22 JUROR NO. 36: Trucking industry.

23 THE COURT: -- the trucking industry.

24 JUROR NO. 36: Yes.

25 THE COURT: All right. And, finally, you work

Juror No. 36 - voir dire

1 for a company that buys or leases large trucks?

2 JUROR NO. 36: Right.

3 THE COURT: Okay. All right. Now, do you think
4 that given your experience and your generally favorable
5 opinion of Eaton's products, do you think you could set that
6 aside and be an impartial juror in this case?

7 JUROR NO. 36: I don't know. I guess I would
8 have to hear the case.

9 THE COURT: All right.

10 JUROR NO. 36: Like I say, I deal with them and
11 deal with transmissions that weren't made by them. I prefer
12 them. So I mean that's just my honest opinion.

13 THE COURT: Already.

14 JUROR NO. 36: So I don't know what the case is
15 about. I'm just saying how I feel toward Eaton.

16 THE COURT: And when you say you prefer, that
17 means you've had fewer problems?

18 JUROR NO. 36: Right.

19 THE COURT: You think they are more reliable,
20 all that sort of thing as a driver?

21 JUROR NO. 36: Yes.

22 THE COURT: All right. Let's see if the lawyers
23 have any followup questions for you.

24 JUROR NO. 36: Okay.

25 MR. FASTOW: Who is your employer?

Juror No. 36 - voir dire

1 JUROR NO. 36: Right now, I'm driving for
2 Foodliner.

3 MR. FASTOW: Do they have mostly Freightliner
4 trucks, Peterbilt?

5 JUROR NO. 36: Yes. Freightliners.

6 MR. FASTOW: How long have you been driving a
7 Freightliner trucks?

8 JUROR NO. 36: I just started with them at the
9 end of June. Other than that, before that, I was mainly
10 driving for the last eight years, Peterbilts.

11 MR. FASTOW: And do you have a good impression
12 of Freightliner?

13 JUROR NO. 36: Actually, compared to Peterbilt,
14 I think Freightliners are kind of raggedy.

15 MR. FASTOW: And you had experience with both?

16 JUROR NO. 36: Excuse me?

17 MR. FASTOW: You've had experiences with
18 Freightliner and Peterbilt?

19 JUROR NO. 36: Yes.

20 MR. FASTOW: What kind of transmissions have you
21 driven?

22 JUROR NO. 36: Mostly Eaton Fuller, and, see,
23 this Freightliner that I'm driving now, I don't believe that
24 is an Eaton transmission, and then I really don't like the
25 transmission. I can't tell you who makes it, but I don't

Juror No. 36 - voir dire

1 like it.

2 MR. FASTOW: Is it a manual transmission?

3 JUROR NO. 36: It's a Super 10.

4 THE COURT: Okay.

5 JUROR NO. 36: Which it's a clutch, but after
6 you take off, you basically are doing everything by a
7 button.

8 MR. FASTOW: So three pedals?

9 MR. TASKIER: It has a clutch.

10 JUROR NO. 36: You need the clutch when you are
11 stopping and you need the clutch when you take off, but once
12 you take off, you go to the rest of your gears just by using
13 the button. And when you get into tenth gear, it is like
14 the overdrive.

15 MR. FASTOW: Right.

16 JUROR NO. 36: And the overdrive in these
17 transmissions, it's just -- it just doesn't work right to
18 me. I've dealt with overdrive that I know that was made by
19 Eaton in the Peterbilts. No overdrive is all that great,
20 but at least the one that I did deal with with Eaton, it was
21 -- I mean, I can appreciate it more now that I'm dealing
22 with this one here, so that's the best I can tell you right
23 now.

24 MR. FASTOW: All right.

25 THE COURT: Anything from defendant's counsel?

Juror No. 37 - voir dire

1 MR. RUYAK: Have you driven some different kind
2 of trucks, like long-haul trucks and short-haul trucks?

3 JUROR NO. 36: I've driven short-haul trucks,
4 like dump trucks.

5 MR. RUYAK: Okay.

6 JUROR NO. 36: But most of my trucks, most of my
7 experience is with 18-wheelers.

8 MR. RUYAK: Okay. Thank you. That's all I
9 have.

10 THE COURT: All right. Thank you very much.
11 Appreciate it.

12 JUROR NO. 36: Okay.

13 (Prospective juror exits juryroom.)

14 * * *

15 (Prospective juror enters juryroom.)

16 THE COURT: Hi. How are you, sir? If you could
17 have a seat next to me.

18 JUROR NO. 37: Okay.

19 THE COURT: You're Juror 37?

20 JUROR NO. 37: Yes.

21 THE COURT: You answered our one question about
22 working for a company that buys or leases large trucks. Can
23 you explain that?

24 JUROR NO. 37: Yes, your Honor. Yes. I work
25 for the Hagemeyer Corporation. They lease flatbed trucks,

Juror No. 37 - voir dire

1 tractor trailers and regular delivery trucks through the
2 Penske Corporation for customer deliveries throughout the
3 United States.

4 THE COURT: And in your position with this
5 company, are you directly involved in that process?

6 JUROR NO. 37: No, I'm not directly involved. I
7 pay a portion of the monthly lease, but I mean I'm not
8 involved in leasing.

9 THE COURT: Okay.

10 JUROR NO. 37: That's not done at my level.

11 THE COURT: Okay. Can you tell us what you do?

12 JUROR NO. 37: Yes, your Honor. I'm the counter
13 sales manager for the Salisbury location.

14 THE COURT: Oh, all right. And so in terms of
15 the trucks that are leased, do you happen to know what kind
16 of transmissions they have, or if anyone has any problems
17 with the transmissions?

18 JUROR NO. 37: They send them in for normal
19 service, regular, but I'm not aware of any problems that
20 they have. They would take that up right with Penske.

21 THE COURT: Is there anything about your
22 experience that would make it difficult for you to sit as an
23 impartial juror in this case, do you think?

24 JUROR NO. 37: Not on this particular question,
25 your Honor, no.

Juror No. 37 - voir dire

1 THE COURT: All right. Let's see if the lawyers
2 have any followup questions.

3 MR. FASTOW: Now, if I could just understand
4 what exactly is -- is it Hagemeyer?

5 JUROR NO. 37: Yes.

6 MR. FASTOW: What is its business?

7 JUROR NO. 37: We're a wholesale electrical and
8 electronics products, like pipe conduit for the building
9 industry, that type of thing.

10 MR. FASTOW: So when you say you are a counter
11 sales manager, what kind of customers do you deal with?

12 JUROR NO. 37: We get what they call viamonic
13 electronic customers. For example, K&L Microwave,
14 electrical contractors, big corporations, Perdue farms,
15 people like that, that purchase material from us, and we set
16 up deliveries. They can come in and pick from us,
17 obviously, because we're a counter. We also set up
18 deliveries for them.

19 MR. FASTOW: So you are involved in the delivery
20 process?

21 JUROR NO. 37: I am involved in the delivery
22 process, yes, sir.

23 MR. FASTOW: Have there been any times when you
24 couldn't make deliveries or deliveries were late because of
25 problems with the trucks?

Juror No. 37 - voir dire

1 JUROR NO. 37: There have been have been, but
2 they relay that information to us via e-mails from
3 Chambersburg, Pennsylvania, which is where the trucks are
4 routed. They're sent from there down to locations and we
5 have trucks at our location that go out for local
6 deliveries, but the tractor trailers make a once-a-night
7 delivery to our location, to drop off, you know, replenish.
8 Stock or special customer orders that need to be delivered
9 that day. And then the drivers of the three Penske trucks
10 that are stationed at our location come in about 4:30 in the
11 morning and they take the trucks out and they make their
12 deliveries.

13 MR. FASTOW: Are you aware of any problems with
14 deliveries from transmission defects or problems?

15 JUROR NO. 37: No, not from transmissions. No,
16 I'm not.

17 MR. FASTOW: I take it you are not really
18 involved in transmissions?

19 JUROR NO. 37: No, no, I'm not involved in
20 transmissions.

21 THE COURT: Anything from defendant's counsel?

22 MR. RUYAK: No.

23 JUROR NO. 37: Your Honor, the next-to-the-last
24 question I misunderstood and thought that that would just
25 pertain to physical --

Juror No. 39 - voir dire

1 THE COURT: Do you have some concerns?

2 JUROR NO. 37: Yeah, because there's only two
3 people at our counter location, and we have our mandatory
4 physical inventory that's coming up on September 25th. You
5 know, a couple day trial or even two weeks, you know, but
6 when you indicated it would be 16 days, it would make a bit
7 of a hardship. If you could just take that into
8 consideration, you know. You know, if need be, we'll just
9 have to transfer somebody in from another location, but I've
10 been in charge of the inventory every year.

11 THE COURT: All right. We will take that into
12 account. Thank you very much.

13 JUROR NO. 37: Okay. Thank you, your Honor.

14 (Prospective juror exits juryroom.)

15 * * *

16 (Prospective juror enters juryroom.)

17 THE COURT: Hi. How are you.

18 JUROR NO. 39: Hi.

19 THE COURT: If you could have a seat next to me.
20 I believe you are Juror 39?

21 JUROR NO. 39: Yes.

22 THE COURT: And you answered one question, and
23 that is about having served as a juror before?

24 JUROR NO. 39: Yes.

25 THE COURT: Can you tell us when and what court?

Juror No. 39 - voir dire

1 JUROR NO. 39: It was about maybe 12 years ago.
2 And I lived in Washington, D.C.

3 THE COURT: All right. And it was a civil
4 lawsuit?

5 JUROR NO. 39: It was.

6 THE COURT: Can you tell us the nature of the
7 suit and whether the jury reached a verdict in that suit?

8 JUROR NO. 39: It was, like, a slip and fall
9 kind of case.

10 THE COURT: All right.

11 JUROR NO. 39: Yes, the jury found for the
12 defendant.

13 THE COURT: The defendant. Is there anything
14 about that experience that would make it difficult for you
15 to sit as an impartial juror here in this case?

16 JUROR NO. 39: No, I don't think so.

17 THE COURT: All right. Let's see if the lawyers
18 have any followup questions for you. Anything from the
19 plaintiff?

20 MR. FASTOW: No.

21 THE COURT: Defendant's counsel?

22 MR. RUYAK: No.

23 THE COURT: Thank you very much. Appreciate it.

24 (Prospective juror exits juryroom.)

25 * * *

Juror No. 42 - voir dire

1 (Prospective juror enters juryroom.)

2 THE COURT: Hi. How are you, sir? If you could
3 have a seat next to me?

4 JUROR NO. 42: Good morning, Judge.

5 THE COURT: You look very dapper today.

6 JUROR NO. 42: Thank you.

7 THE COURT: I think you answered two of our
8 questions, but I will go to the last question about having
9 some concerns about serving as a juror here.

10 JUROR NO. 42: Well, first of all, I'm a
11 teacher. I teach Political Science and American History
12 and, of course, in the development of my training, I've
13 acquired a significant knowledge of monopolies, history of
14 robber barons, things of that sort. So while I would strive
15 to be fair and objective, I don't know to what extent my
16 knowledge would influence my decision and so I thought it
17 was appropriate that I acknowledge that.

18 THE COURT: All right. You had another concern
19 about serving as a juror? You answered our last question.

20 JUROR NO. 42: Yeah. I think there was
21 something about my education and training.

22 THE COURT: Right. Okay.

23 JUROR NO. 42: I hold a Bachelor's degree in
24 Political Science, a Master's Degree in Public
25 Administration and 45 doctoral credits in Public Law.

Juror No. 42 - voir dire

1 THE COURT: All right. Now, do you think that
2 you would be able to -- I don't know that anyone can
3 entirely set aside their experience and education, but you
4 would be instructed to follow my instructions as to the law
5 whether you agree with them or not. Do you think you could
6 do that, or do you think you might have some problems with
7 that?

8 JUROR NO. 42: Well, I mean, to the best of my
9 ability, I would. You know, strive to be objective, but,
10 again, in all honesty, given my insight, I can't say that I
11 could clearly separate even, you know, with all due respect
12 to the directions of you, your Honor, and the core. I think
13 we're all influenced by our experiences and knowledge, to
14 some degree. And so it would be my objective to do that,
15 but, again, I thought I needed to acknowledge that and leave
16 that to your decision.

17 THE COURT: All right. Do you have any other
18 concerns about serving as a juror here?

19 JUROR NO. 42: Well, the only other thing is,
20 the school year is just starting, and, you know, that would
21 be a concern that I would be away from my students for a
22 while.

23 THE COURT: Okay. You teach on what level?
24 High school? College?

25 JUROR NO. 42: Yes, I teach high school. I used

Juror No. 45 - voir dire

1 to teach some college course but I teach high school,
2 Political Science.

3 THE COURT: Okay.

4 JUROR NO. 42: Economics, American History.

5 THE COURT: All right. Let's see if the lawyers
6 have any followup questions for you.

7 Anything from plaintiffs' counsel?

8 MR. FASTOW: No. Thank you, your Honor.

9 THE COURT: Defendant's counsel?

10 MR. RUYAK: No. Thank you.

11 THE COURT: Thank you very much. Appreciate it.

12 (Prospective juror exits juryroom.)

13 * * *

14 (Prospective juror enters juryroom.)

15 THE COURT: Hi. If you could have a seat next
16 to me. I believe you are Juror 45?

17 JUROR NO. 45: Mm-hmm.

18 THE COURT: And you answered our last question
19 affirmatively?

20 JUROR NO. 45: Yes.

21 THE COURT: Can you explain?

22 JUROR NO. 45: I just can't take that much time
23 off of work at the present time. I brought a letter from my
24 manager. I work in tax, JP MorganChase and we have a filing
25 deadline of 9/15.

Juror No. 46 - voir dire

1 THE COURT: Let me just pass this around to
2 counsel.

3 JUROR NO. 45: Okay.

4 THE COURT: And I take it, it would work a
5 hardship on your company and on you if you were asked to
6 serve for this trial?

7 JUROR NO. 45: Right.

8 THE COURT: Okay.

9 (Pause.)

10 JUROR NO. 45: Also, my mother is not doing well
11 medically, so there would be a good chance that she could
12 pass away during the trial.

13 THE COURT: All right. Any followup questions?

14 MR. RUYAK: No.

15 THE COURT: Thank you very much. Appreciate it.

16 JUROR NO. 45: Thank you.

17 (Prospective juror exits juryroom.)

18 MR. FASTOW: Your Honor, what was the number of
19 the prior person?

20 THE COURT: That was 42.

21 MR. FASTOW: 42? Thank you.

22 (Prospective juror enters juryroom.)

23 THE COURT: Hi. How are you?

24 JUROR NO. 46: Good morning.

25 THE COURT: If you could have a seat next to me.

Juror No. 46 - voir dire

1 And I believe you are Juror 46?

2 JUROR NO. 46: Yes, ma'am.

3 THE COURT: And you answered two of our
4 questions. One had to do with the subject areas and the
5 other was about working for a company that buys or leases
6 large trucks?

7 JUROR NO. 46: Yes. And my affirmation was more
8 along the safe than sorry thing. I'm a Divisional Director
9 with Krispy Kreme Donut Corporation.

10 THE COURT: I miss them so much.

11 JUROR NO. 46: Yes. I'm working on that.

12 MR. RUYAK: Look what we have here. This is not
13 good. (Dunkin Donuts coffee cups are indicated.)

14 JUROR NO. 46: I know. I had to take that with
15 a grain of salt. But I basically work with approximately
16 eight different franchise groups and all of them, for the
17 most part, lease fleet trucks, mostly the non-commercial
18 type trucks, just for general donut deliveries.

19 I've got, like, a 10,000-foot working knowledge
20 of maintenance agreements with, whether leasing through
21 Penske or Rollins, or whomever. More along the lines of the
22 terminology, things along that, and, again, it's more of a
23 safe than sorry type thing.

24 So I just want to mentioned the fact that I am
25 familiar with some leasing concepts and things along those

Juror No. 46 - voir dire

1 lines.

2 THE COURT: Well, I'm going to have, because you
3 know more than I do, I'm going to have the lawyers ask the
4 followup questions.

5 MR. FASTOW: What is your role?

6 JUROR NO. 46: I basically act as liaison
7 between the franchisees and the corporate entity. I get
8 paid by the company, but act as liaison between the
9 franchisees. I assist them with store openings, working
10 through their franchise agreements, things they can't do,
11 maintaining standards, implementing new processes, new
12 products, inspections, things along those lines. Sort of
13 the whole gamut.

14 MR. FASTOW: Are you out in the field much?

15 JUROR NO. 46: For the most part, yes. I live
16 in Wilmington, Delaware and I cover everything from
17 Huntsville, Connecticut to Northern California, Oklahoma,
18 Texas, Southern Florida. My closest place is Scranton,
19 Pennsylvania, but outside of that, for the most part, I get
20 on a plane every Monday or Tuesday and get back off a plane
21 every Thursday or Friday.

22 THE COURT: So this trial might actually let you
23 stay put for a also bit?

24 JUROR NO. 46: What it is, right now, most of
25 the stuff I've been doing of late, I've actually not been

Juror No. 46 - voir dire

1 traveling that much because we had new franchise agreements
2 come out. There were a lot more phone conversations over
3 those things than actually visiting markets.

4 THE COURT: All right.

5 MR. FASTOW: Are you involved at all with the
6 delivery trucks?

7 JUROR NO. 46: For the most part, no. The
8 franchisees each make their own decisions as to what they
9 are going to do, whether they're going to buy, lease,
10 perform their own maintenance or get a separate maintenance
11 contract from an outside vendor. I don't help them with the
12 decisions. If they ask me to look at something, I will look
13 at it.

14 I may recommend, if they're getting ready to
15 come off of a lease, there's a franchisee out of Austin,
16 Texas that's basically gone to a non-commercial type truck,
17 and sort of came up with a delivery system that allows his
18 product to be transported using a smaller, non-commercial
19 truck, where he gets better gas mileage, better maintenance,
20 and he can, for the most part, turn the trucks over in three
21 years and get out of that whole lease process.

22 A lot of the guys can't do that. They are just
23 not in a financial position to do so.

24 But, really, outside of that, nothing -- I don't
25 execute the leases. I don't make sure they maintain their

Juror No. 46 - voir dire

1 services on the vehicles, things along those lines.

2 MR. FASTOW: You are familiar with the way a
3 truck or a part of a truck might affect things like fuel
4 mileage and expense?

5 JUROR NO. 46: Absolutely, and suggested
6 maintenance schedules and things along those lines.
7 Absolutely.

8 MR. FASTOW: You spend a lot of time on that
9 issue?

10 JUROR NO. 46: Not a whole heck of a lot.
11 Again, each of the franchisees are able to make, strike
12 their own deals. I don't do anything with the company side.
13 I know the company maintains a larger fleet. I couldn't
14 take a stab in the dark who it is through. But, again, I
15 think they are all the smaller, non-C licensed type vehicles
16 versus -- we use Bakemark for distribution, everything west
17 of the Mississippi right now, and that's an independent
18 hauler. And different haulers will transport goods from
19 Winston-Salem in the larger tractor-trailers up to
20 Connecticut, New York, South Florida, some other places.
21 But I think their contract is services.

22 MR. FASTOW: Are you involved at all with
23 problems if any of those trucks have problems? If they
24 break down or get stuck, whatever?

25 JUROR NO. 46: None whatsoever. That's handled

Juror No. 49 - voir dire

1 by the corporate company guys.

2 MR. FASTOW: All right.

3 MR. RUYAK: I have nothing else.

4 THE COURT: Thank you very much. Appreciate it.

5 MR. RUYAK: Thank you.

6 JUROR NO. 46: Thanks.

7 (Prospective juror exits juryroom.)

8 * * *

9 (Prospective juror enters juryroom.)

10 THE COURT: Hi. How are you?

11 JUROR NO. 49: Good morning.

12 THE COURT: If you could have a seat by me.

13 JUROR NO. 49: All right. Thank you.

14 THE COURT: And you are Juror 49?

15 JUROR NO. 49: Yes.

16 THE COURT: And you answered two of our
17 questions. I'm going to ask you about your response to one
18 of the final questions about having concerns about sitting
19 as a juror.

20 JUROR NO. 49: Yes. I just have a little bit of
21 a hearing problem.

22 THE COURT: All right.

23 JUROR NO. 49: So in there, I could hear you,
24 but just barely. I mean --

25 THE COURT: I am soft-spoken.

Juror No. 49 - voir dire

1 JUROR NO. 49: Yes.

2 THE COURT: I'm always getting told that.

3 JUROR NO. 49: Most conversations, I can hear.

4 I just thought I would bring that to your attention.

5 THE COURT: All right. I guess if you were
6 selected to serve, would you be sure that you raised your
7 hand if we needed to speak louder, either the attorneys, the
8 witnesses or me?

9 JUROR NO. 49: Yes, I would do that.

10 THE COURT: You are not shy?

11 JUROR NO. 49: No, no, not really.

12 THE COURT: We have to make sure about that.

13 You also answered the question about having
14 served as a juror before. Can you tell us when that was?

15 JUROR NO. 49: It was in this court, probably
16 15 -- 10 or 15 years ago.

17 THE COURT: Okay.

18 JUROR NO. 49: Under Judge McKelvie.

19 THE COURT: All right. Do you recall what kind
20 of case it was?

21 JUROR NO. 49: It was a lawsuit, a civil case,
22 and it involved a person that got injured on a job that was
23 suing a company.

24 THE COURT: All right. And did the jury
25 deliberate and reach a verdict?

Juror No. 49 - voir dire

1 JUROR NO. 49: Yes.

2 THE COURT: Can you tell us what that verdict
3 was?

4 JUROR NO. 49: Yes. We proved that there was no
5 negligence.

6 THE COURT: No negligence?

7 JUROR NO. 49: Yes.

8 THE COURT: Is there anything about that
9 experience that would make it difficult for you to sit as an
10 impartial juror in this case?

11 JUROR NO. 49: I don't think so. I can't
12 imagine it.

13 THE COURT: All right. Let's see if the lawyers
14 have any followup questions.

15 MR. FASTOW: No, your Honor.

16 THE COURT: Anything?

17 MR. RUYAK: No, I don't have anything.

18 THE COURT: Thank you very much.

19 JUROR NO. 49: Oh, that was easy enough. Thank
20 you.

21 (Prospective juror exits juryroom.)

22 * * *

23 (Prospective juror enters juryroom.)

24 THE COURT: Hi. How are you? If you could have
25 a seat.

Juror Nos. 51 and 53 - voir dire

1 MR. REID: She works for Morris Nichols.

2 JUROR NO. 51: Yes. I'm, like, I work for Don.

3 THE COURT: All right. Any followup questions?

4 JUROR NO. 51: That's probably it; right?

5 THE COURT: That's it.

6 JUROR NO. 51: Thanks.

7 THE COURT: Thank you very much.

8 MR. FASTOW: What number was that?

9 THE COURT: That was 51. I'm sorry.

10 (Prospective juror exits juryroom.)

11 * * *

12 (Prospective juror enters juryroom.)

13 THE COURT: All right. Have a seat, please.

14 You are Juror 53.

15 JUROR NO. 53: Yes.

16 THE COURT: And you answered two of our
17 questions. One had to do with the companies, the list of
18 companies. And let me go back. Whether you, a family
19 member, or anyone close to you had any dealings with or
20 relied financially on any of the companies?

21 JUROR NO. 53: Not financially, but I had an
22 invention to some of companies. I saw Chrysler on this
23 list. And they responded with some legal information, like
24 nondisclosure waivers, stuff like that. And other than
25 that, they didn't show any interest in my invention.

Juror No. 53 - voir dire

1 THE COURT: Your invention?

2 JUROR NO. 53: That's all the relationship I had
3 at that point.

4 THE COURT: I take it your invention had
5 something to do with the car industry, though?

6 JUROR NO. 53: Definitely. All of them. It was
7 a kind of engine. Not a transmission, but the invention
8 would eliminate a transmission.

9 THE COURT: Oh, wow. I will let the lawyers
10 follow up on that. And, I take it, when you listed the
11 subject areas, that it was on the trucking industry or
12 maintenance that you had some experience and training?

13 JUROR NO. 53: Yes. For eight years, I was a
14 brake and clutch system designer and testing engineer, so
15 the axles, but not directly maintaining the transmission,
16 but I know very well what's going on there, different kinds
17 of designs in those systems.

18 THE COURT: All right.

19 JUROR NO. 53: I understand the maintenance, all
20 issues.

21 THE COURT: With whom were you working?

22 JUROR NO. 53: Oh, sorry. I was -- this patent
23 I hold in India, not in U.S.

24 THE COURT: All right. Well, the lawyers know
25 more about this than I do, so I'm going to let them follow

Juror No. 53 - voir dire

1 up with you.

2 Anything from plaintiffs' counsel?

3 MR. FASTOW: I take it you are familiar with
4 manual transmissions versus automatic transmissions?

5 JUROR NO. 53: Yes.

6 MR. FASTOW: And how they work and the
7 particulars?

8 JUROR NO. 53: Yes. In general, I know what's
9 going on there, because I'm handling and also I can --

10 MR. FASTOW: Any relationship between the
11 transmission and other parts of the drive train --

12 JUROR NO. 53: Yes.

13 MR. FASTOW: -- relationship with the engine?

14 JUROR NO. 53: Yes.

15 MR. FASTOW: I take it, your invention you said
16 is designed to eliminate the need for a transmission?

17 JUROR NO. 53: Yes. I don't know if that
18 qualifies or disqualifies me here. I just wanted to say
19 that.

20 MR. FASTOW: And how long have you been involved
21 in or around transmissions?

22 JUROR NO. 53: About eight years. That was --
23 that career -- that part of my career ended in '89. Sorry.
24 '89.

25 There's one more part. Sorry. I missed more

Juror No. 53 - voir dire

1 information here.

2 I was also manufacturing small automobile parts
3 and exporting to the U.S., and some others, and so I do have
4 the experience of manufacturing -- not -- smaller parts, not
5 directly connected with the transmission but, in general,
6 automotive parts.

7 MR. FASTOW: And selling? Who are your
8 customers you sold to?

9 JUROR NO. 53: Here, I sold to Reidell
10 Associates, Incorporated (phonetic). There was one company
11 in Germany. There was a company called RCP in Canada. I
12 can't remember the company name in Germany.

13 MR. FASTOW: You were in the business of selling
14 automotive parts?

15 JUROR NO. 53: Correct.

16 MR. FASTOW: How long were you in that business
17 or are you still in that business?

18 JUROR NO. 53: That was about four years.

19 MR. FASTOW: Okay.

20 JUROR NO. 53: They are all from India. The
21 last couple of years, I was doing only pure marketing here,
22 not a citizen of U.S., but now I'm a citizen of U.S.

23 THE COURT: And are you no longer involved in
24 that field?

25 JUROR NO. 53: No, I do my own -- I'm not

Juror No. 53 - voir dire

1 commercially involved there.

2 THE COURT: Okay.

3 JUROR NO. 53: Right now, I'm trying to -- try
4 to patent all this stuff, but not dealing with any companies
5 at this point.

6 THE COURT: All right.

7 MR. FASTOW: But you are still involve in your
8 designs and inventions with respect to these kinds of
9 automotive components?

10 JUROR NO. 53: Let me think. Not currently.

11 MR. FASTOW: How long ago were you?

12 JUROR NO. 53: That was around 2001 was the last
13 one I did anything towards.

14 MR. FASTOW: Okay.

15 MR. RUYAK: Just one question. When you were
16 working with the brakes and drivetrains and things,
17 clutches, was that for trucks or cars or both?

18 JUROR NO. 53: For all kinds.

19 MR. RUYAK: For all kinds?

20 JUROR NO. 53: Including industrial rig.

21 THE COURT: Anything else, counsel?

22 MR. FASTOW: No.

23 THE COURT: Thanks you very much.

24 JUROR NO. 53: Thanks.

25 THE COURT: Appreciate it.

Juror No. 54 - voir dire

1 (Prospective juror exits juryroom.)

2 * * *

3 (Prospective juror enters juryroom.)

4 Hi. How are you, sir?

5 JUROR NO. 54: Hello.

6 THE COURT: If you could have a seat next to me.

7 And you are Juror 56?

8 JUROR NO. 54: 54.

9 THE COURT: Oh, 54. All right. 54. Thank you.

10 And you answered one of our questions, and
11 that's whether you've worked for a company that buys or
12 leases trucks?

13 JUROR NO. 54: DuPont.

14 THE COURT: DuPont?

15 JUROR NO. 54: Yes.

16 THE COURT: And can you tell us what you did for
17 DuPont?

18 JUROR NO. 54: I was a carpenter.

19 THE COURT: Okay. So although DuPont leased
20 trucks, did you have anything to do with trucks in your job?

21 JUROR NO. 54: Well, I was -- I was cut back to
22 a lesser job, and I was in operations. And when tank trucks
23 came in, I had to go up and open them up.

24 THE COURT: All right. And did you know -- I
25 mean, did you get familiar with the kinds of trucks or their

Juror No. 54 - voir dire

1 maintenance or --

2 JUROR NO. 54: No.

3 THE COURT: These were leased trucks then?

4 JUROR NO. 54: No.

5 THE COURT: Okay. Let's see if the lawyers have
6 any followup questions for you.

7 MR. FASTOW: Sure. What was the connection
8 between the tank trucks and being cut back?

9 JUROR NO. 54: Pardon me?

10 MR. FASTOW: Is there a relationship between the
11 tank trucks, and you said you were cut back?

12 JUROR NO. 54: No.

13 MR. FASTOW: That was separate?

14 JUROR NO. 54: Yes. I was cut back, and I went
15 into operations, what they called operations. And you had
16 to, like, mix different items, and when a tank truck came
17 in, it pulled in, and you had to go up and open it up and
18 hook it up.

19 MR. FASTOW: What would be in the tank trucks?

20 JUROR NO. 54: Different chemicals. I don't
21 know what they were.

22 MR. FASTOW: But that was your only role with
23 the trucks?

24 JUROR NO. 54: Yes.

25 MR. FASTOW: Okay.

Juror No. 56 - voir dire

1 THE COURT: Anything from defendant's counsel?

2 MR. RUYAK: No.

3 THE COURT: All right. Thank you very much.

4 Appreciate it.

5 JUROR NO. 54: Thank you. Thank you.

6 (Prospective juror exits juryroom.)

7 * * *

8 (Prospective juror enters juryroom.)

9 THE COURT: Hi. How are you? If you could have
10 a seat next to me.

11 You're Juror 56?

12 JUROR NO. 56: Yes.

13 THE COURT: And you answered a few of our
14 questions.

15 JUROR NO. 56: I did.

16 THE COURT: Some of which -- well, let's start
17 with the last one. You work for a company that buys or
18 leases large trucks?

19 JUROR NO. 56: I work for Verizon in Delaware.
20 I'm not involved in the purchasing, but I do know that they
21 purchase large trucks.

22 THE COURT: All right. And the other question
23 was having worked for a company that has been allege to have
24 engaged in monopoly or --

25 JUROR NO. 56: Verizon, yes. When they were

Juror No. 56 - voir dire

1 Bell Atlantic.

2 THE COURT: Oh, so that's going back a ways.

3 How long have you been employed there?

4 JUROR NO. 56: 12 years.

5 THE COURT: 12 years.

6 And did you have anything to do with the legal
7 aspects of those allegations, or you just knew they were --

8 JUROR NO. 56: Absolutely not. Just an
9 employee.

10 THE COURT: You answered some of our first
11 questions about the companies, dealings with any of these
12 companies or the products of the companies. Can you tell me
13 about that?

14 JUROR NO. 56: The reason why I stood up, my
15 husband is a fleet manager for Waste Management and he
16 actually does work on large trucks and deals with -- I know
17 it's called Harvey Mack. I'm not sure if that is the same
18 company, and some of the others mentioned, International,
19 Peterbilt. So I'm familiar and I've actually picked up
20 parts at one of them for him.

21 THE COURT: Okay. In terms of your exposure to
22 the trucking industry through your husband, do you think
23 there's anything about that that would make it difficult for
24 you to sit as an impartial juror in this case?

25 JUROR NO. 56: No, I don't think so. I mean, my

Juror No. 56 - voir dire

1 knowledge is not much.

2 THE COURT: All right.

3 JUROR NO. 56: So I don't --

4 THE COURT: Well, let's see if the lawyers have
5 any followup questions.

6 MR. FASTOW: Okay. What do you do at Verizon?

7 JUROR NO. 56: I am a consultant in the sales
8 and service office. I deal with residential customers who
9 have concerns.

10 MR. FASTOW: Do you deal with complaints and so
11 forth?

12 JUROR NO. 56: Yes, yes. I work at an
13 Escalation Desk there.

14 MR. FASTOW: What's an Escalation Desk?

15 JUROR NO. 56: Basically, if you are calling in
16 with a question or concern with mainly your bill, you will
17 ask for a supervisor. While I'm not a supervisor, I act as
18 a supervisor in that capacity because of the knowledge.

19 MR. FASTOW: You're the person, when I say, can
20 I talk to someone else?

21 THE COURT: As the complaint escalates, it comes
22 to her.

23 MR. FASTOW: I've got it.

24 JUROR NO. 56: That's me.

25 MR. FASTOW: Great. Thank you.

Juror No. 57 - voir dire

1 THE COURT: Anything from defense counsel?

2 MR. RUYAK: No.

3 THE COURT: Thank you very much.

4 JUROR NO. 56: Thank you for the doughnuts.

5 That was very nice.

6 THE COURT: You're welcome.

7 (Prospective juror exits juryroom.)

8 * * *

9 (Prospective juror enters juryroom.)

10 THE COURT: Hi. How are you, sir? If you could
11 have a seat next to me.

12 And I believe you are Juror 57.

13 JUROR NO. 57: Yes. James.

14 THE COURT: James. Right.

15 And you answered two of our questions. One had
16 to do with whether you had ever served as a juror before.

17 JUROR NO. 57: Right.

18 THE COURT: Can you tell us when that was?

19 JUROR NO. 57: That was about ten years ago in
20 Kent County.

21 THE COURT: Okay.

22 JUROR NO. 57: It was a case with Delaware
23 Electric Co-Op. And what it was, it was a civil case,
24 electrocutions. Wife tried to, get restitution, you know,
25 for a family.

Juror No. 57 - voir dire

1 THE COURT: Right. And did the jury deliberate
2 in that case?

3 JUROR NO. 57: Yes.

4 THE COURT: Did you reach a verdict?

5 JUROR NO. 57: Yes.

6 THE COURT: Do you remember what it was? Was it
7 for the wife?

8 JUROR NO. 57: Yes. Delaware Co-Op -- they
9 found Delaware Co-Op liable for like 75 percent their
10 liability and 25 percent of the plaintiffs.

11 THE COURT: Is there anything about that
12 experience that would make it difficult for you to be an
13 impartial juror here?

14 JUROR NO. 57: No, no.

15 THE COURT: Okay. You also answered one of our
16 first questions about the companies, whether you, a family
17 member, or a close friend ever worked for any of the
18 companies?

19 JUROR NO. 57: Yes. I had a cousin work for
20 DaimlerChrysler up in New York, the now defunct company.
21 Yeah.

22 THE COURT: And I believe that plant
23 manufactured cars, not trucks, I believe?

24 JUROR NO. 57: Yes, cars. Yes.

25 THE COURT: Already. I'm not exactly sure how

Juror No. 60 - voir dire

1 this will come up. I will let the lawyers ask about that.

2 MR. FASTOW: I take it, you just answered that?

3 There's nothing involved that would affect your ability to
4 address this case?

5 JUROR NO. 57: Right.

6 THE COURT: Anything from defendant's counsel?

7 MR. RUYAK: No, I don't think so.

8 THE COURT: Thank you very much.

9 JUROR NO. 57: You're welcome.

10 (Prospective juror exits juryroom.)

11 * * *

12 (Prospective juror enters juryroom.)

13 THE COURT: I think the next juror should be
14 Juror 60.

15 THE COURT: Hi. How are you?

16 JUROR NO. 60: Hi.

17 THE COURT: Why don't you have a seat next to
18 me.

19 I think you answered a few questions, but you
20 answered one of our last two questions. Let me ask you
21 about that first.

22 JUROR NO. 60: It's not considered a disability,
23 but I have ulcerative colitis, and when I heard that the
24 trial could be up to 16 days, there's a lot of days during
25 the week where I will have to use the bathroom frequently

Juror No. 60 - voir dire

1 and sometimes with some relative urgency.

2 THE COURT: Okay.

3 JUROR NO. 60: So that made me a little nervous.

4 THE COURT: All right. Well, we try to take
5 breaks every hour-and-a-half, and we try to accommodate
6 jurors, but with a trial like this, where we are trying to
7 be efficient, if you think that that just isn't going to do
8 it for you --

9 JUROR NO. 60: It's something that's a little
10 bit unpredictable to me. Sometimes I have trouble in the
11 morning, and sometimes it's more in the afternoon.

12 THE COURT: Okay.

13 JUROR NO. 60: Kind of been flare-ups -- not
14 without a flare-up over the course of the last year.

15 THE COURT: All right.

16 JUROR NO. 60: I'm just not sure.

17 THE COURT: Let me just quickly ask you about
18 some of the other questions.

19 JUROR NO. 60: Okay.

20 THE COURT: You served as a juror before?

21 JUROR NO. 60: Mm-hmm.

22 THE COURT: When was that?

23 JUROR NO. 60: It was several years ago. It was
24 an insurance type case.

25 THE COURT: All right. And did you have the

Juror No. 60 - voir dire

1 same physical problems then?

2 JUROR NO. 60: Not at that point.

3 THE COURT: Not at that point?

4 JUROR NO. 60: No.

5 THE COURT: Do you remember whether the jury
6 reached a verdict in that case and what it might have been?

7 JUROR NO. 60: Yes. It was not in favor of the
8 plaintiff. It was in favor of the defendant.

9 THE COURT: Okay. Is there anything about that
10 experience that would make it difficult for you to be an
11 impartial juror here?

12 JUROR NO. 60: I don't think so.

13 THE COURT: Okay. And you just answered one
14 other question, and that had to do with any of the
15 additional companies that were listed?

16 JUROR NO. 60: Mm-hmm.

17 THE COURT: Do you recall?

18 JUROR NO. 60: So did you ask whether you had
19 friends and family that --

20 THE COURT: Yes.

21 JUROR NO. 60: I knew there was a question about
22 financial.

23 THE COURT: Right.

24 JUROR NO. 60: We've had family and we have
25 close family friends that work for Chrysler. I didn't if

Juror No. 65 - voir dire

1 that would -- I figured that should be something I should
2 tell you.

3 THE COURT: Thank you.

4 Any followup questions for this juror?

5 MR. FASTOW: No.

6 MR. RUYAK: No. Thanks.

7 THE COURT: Thank you very much. Appreciate it.

8 JUROR NO. 60: Just go back?

9 THE COURT: Yes.

10 (Prospective juror exits juryroom.)

11 * * *

12 (Prospective juror enters juryroom.)

13 THE COURT: Hi. How are you?

14 JUROR NO. 65: Hello.

15 THE COURT: If you could have a seat next to me.

16 I believe you're Juror 65?

17 JUROR NO. 65: Yes.

18 THE COURT: You answered some of the first
19 questions about the companies that were listed. Can you
20 explain your answers?

21 JUROR NO. 65: I don't know if I was talking
22 about the right companies, though. My father worked for
23 Chrysler.

24 THE COURT: Okay.

25 JUROR NO. 65: And he's retired from Chrysler.

Juror No. 66 - voir dire

1 THE COURT: All right. Did he work his entire
2 working life for Chrysler?

3 JUROR NO. 65: Yes.

4 THE COURT: All right. I will let the lawyers
5 ask the followup questions, because I'm not sure how to --

6 MR. FASTOW: Is there anything about that fact
7 that would stop you from being a fair juror in this case?

8 JUROR NO. 65: I don't think so.

9 THE COURT: Okay. Anything from counsel?

10 MR. RUYAK: No. Thank you.

11 THE COURT: Thank you very much. Appreciate it.

12 JUROR NO. 65: Thank you.

13 (Prospective juror exits juryroom.)

14 THE COURT: We have a lot of Chrysler connections.

15 (Prospective juror enters juryroom.)

16 THE COURT: Hi. How are you?

17 JUROR NO. 66: Fine.

18 THE COURT: If you could have a seat next to me.
19 You're Juror 66?

20 JUROR NO. 66: Yes.

21 THE COURT: And you answered the questions that
22 we ask in the beginning about the companies. And can you
23 explain your responses?

24 JUROR NO. 66: Yes. I worked for one of the
25 companies on the list.

Juror No. 66 - voir dire

1 THE COURT: Okay. Which company?

2 JUROR NO. 66: DaimlerChrysler.

3 THE COURT: Is that in the Newark plant when it
4 was there?

5 JUROR NO. 66: Yes.

6 THE COURT: How long did you work there?

7 JUROR NO. 66: I worked 13.

8 THE COURT: 13 years?

9 JUROR NO. 66: My husband was there also. He
10 worked 37.

11 And I have many friends and some that are still
12 not -- I don't understand it, but I have a cousin that's out
13 now. well, no, he's still there, somehow, in a bank job and
14 all. And many friends, back and forth, some of them. The
15 whole nine yards.

16 THE COURT: I'm not sure exactly what role the
17 Chrysler name will play in this case, but do you think if
18 Chrysler does come up that you can set aside whatever
19 personal experiences you've had and be an objective juror in
20 this case?

21 JUROR NO. 66: I don't think so, to be honest.
22 I mean, so much stuff that went on that I know.

23 THE COURT: Right.

24 JUROR NO. 66: And I would have to be truthful.

25 THE COURT: All right. Let's see if the lawyers

Juror No. 66 - voir dire

1 have any followup questions.

2 Anything?

3 MR. FASTOW: In terms of what went on at
4 Chrysler that you know about, do you know anything about
5 truck transmissions?

6 JUROR NO. 66: Truck transmissions? No.

7 MR. FASTOW: What part were you involved in?

8 JUROR NO. 66: I was involved with the chassis
9 department, paint shop and body shop.

10 MR. FASTOW: For cars?

11 JUROR NO. 66: For cars. The last truck was a
12 Durango.

13 MR. FASTOW: And in terms of any of the other
14 people who have worked at Chrysler, any of them involved in
15 terms of heavy-duty trucks, or truck transmissions?

16 JUROR NO. 66: Just one, but it's, like, a
17 distant friend. Mm-hmm.

18 MR. FASTOW: So when you said, putting aside
19 things you know about Chrysler, those things are really not
20 related to heavy-duty trucks or truck transmissions?

21 JUROR NO. 66: No.

22 MR. FASTOW: Okay. Thank you.

23 MR. RUYAK: Is your general view about Chrysler
24 positive or negative, or neither?

25 THE COURT: Bittersweet?

Juror No. 66 - voir dire

1 JUROR NO. 66: Yes. Bittersweet, yeah. It's
2 kind of rough for me to say negative and kind of rough for
3 me to say positive, because of the things that went down,
4 what has gone down now.

5 MR. RUYAK: What about with Daimler, when
6 Daimler took over Chrysler? Do you have any negative or
7 positive feelings with Daimler as a company?

8 JUROR NO. 66: I didn't like the idea that
9 Chrysler was selling. I mean, I was involved in that and I
10 didn't like that idea at all. But who am I, you know, just
11 one voice. And then it did go wrongfully the way we were
12 saying they shouldn't be buying. You know, they shouldn't
13 be buying us out, and they did, and then things went
14 downhill for us from then on.

15 MR. RUYAK: All right. Are you or your husband
16 getting any benefits at all from Chrysler?

17 JUROR NO. 66: We were, but we just lost a
18 couple benefits just July, and I was up for my appointment
19 for them when I got there. They said I didn't have any
20 benefits. And I don't know how much more I'm going to be
21 losing. I mean, that was my eyes and my dental. And so ...

22 THE COURT: Anything else?

23 MR. RUYAK: That's all I have.

24 THE COURT: Thank you very much. Appreciate it.

25 MR. RUYAK: Thank you.

Juror No. 69 - voir dire

1 (Prospective juror exits juryroom.)

2 * * *

3 (Prospective juror enters juryroom.)

4 THE COURT: Hi. How are you?

5 JUROR NO. 69: Fine. Thank you.

6 THE COURT: I believe you are Juror 69. And you
7 answered a couple of questions about the companies that had
8 been listed. Can you explain?

9 JUROR NO. 69: The first, where it said the
10 companies, that was not correct.

11 THE COURT: Okay.

12 JUROR NO. 69: It was the additional companies.

13 THE COURT: Additional companies. All right.

14 JUROR NO. 69: Dana Corporation.

15 THE COURT: Okay.

16 JUROR NO. 69: My employer owned the building
17 that they leased, and my only connection was I collected
18 their rent, made sure their real estate taxes were paid, and
19 their insurance was paid. That's it.

20 THE COURT: Okay. And did you have any negative
21 experiences with that company?

22 JUROR NO. 69: None.

23 THE COURT: All right. So they did what they
24 were supposed to do?

25 JUROR NO. 69: Exactly.

Juror No. 70 - voir dire

1 THE COURT: Okay. And do you think that there's
2 anything about your relationship with them that would make
3 it difficult for you to be an impartial juror in this case?

4 JUROR NO. 69: I just dealt with clerical.

5 THE COURT: Okay. All right. Let's see if the
6 lawyers have any followup questions.

7 MR. FASTOW: No questions, your Honor.

8 MR. RUYAK: Nothing.

9 THE COURT: All right. Thank you very much.

10 JUROR NO. 69: Okay.

11 (Prospective juror exits juryroom.)

12 * * *

13 (Prospective juror enters juryroom.)

14 THE COURT: Hi. How are you, sir?

15 JUROR NO. 70: Good morning.

16 THE COURT: If you could have a seat next to me.
17 I believe you're Juror 70?

18 JUROR NO. 70: Yes, ma'am.

19 THE COURT: And you answered a couple of
20 questions about the companies that we've listed. Could you
21 explain your answers?

22 JUROR NO. 70: Well, I used to work for a
23 company called United Rentals, and we used to rent and
24 sell -- what we did was rent and sell equipment and some of
25 the equipment that we had, that we used, were on that list.

Juror No. 70 - voir dire

1 THE COURT: And how long ago was that?

2 JUROR NO. 70: I've been out of there for a
3 year and-a-half. I was laid off. I was laid off a year
4 and-a-half ago.

5 THE COURT: And how long did you work there?

6 JUROR NO. 70: Eight years.

7 THE COURT: Eight years. And of the equipment,
8 did you specifically deal and have knowledge about? Did you
9 lease trucks? Is that part of the equipment?

10 JUROR NO. 70: We, you know, as a whole leased
11 vehicles and purchased vehicles from some of the vendors
12 that were on the list.

13 THE COURT: Okay. And I think I will let the
14 lawyers have the followup questions to finish up, because
15 I'm not sure I will ask the right ones.

16 Yes, sir?

17 MR. FASTOW: Which companies were the ones you
18 noted?

19 JUROR NO. 70: Well, we had a Kenworth vehicle,
20 and we leased three -- two tractor trailers and one rollback
21 from International.

22 MR. FASTOW: You were involved in that leasing?

23 JUROR NO. 70: I was the service manager, so it
24 was my -- it was my job to make sure that, you know, if
25 Kenworth needed parts, we bought parts from Kenworth. Being

Juror No. 70 - voir dire

1 the three leased vehicles, just setting up the lease between
2 -- in this case, it was Ideal Lease of Baltimore and United
3 Rentals.

4 MR. FASTOW: You were involved in keeping them
5 operational?

6 JUROR NO. 70: Yes, sir.

7 MR. FASTOW: That was all parts of the trucks?

8 JUROR NO. 70: Pretty much, yeah.

9 MR. FASTOW: Including transmissions?

10 JUROR NO. 70: Yes.

11 MR. FASTOW: Were there particular issues?

12 JUROR NO. 70: No, no, no, because they were
13 all brand-new. I mean, all the trucks that we got were
14 brand-new, and we didn't -- we didn't physically work on
15 them. I mean, we just scheduled the work and sent them on
16 down.

17 MR. FASTOW: To someone else's company?

18 JUROR NO. 70: No. To -- like, the Kenworth had
19 to be sent out one time because we did do a little bit of
20 tinkering with the Kenworth. But with the Ideal, with the
21 Ideal Lease of Baltimore through International, we had
22 contracts with them, where a recorder, over so many years,
23 they went up and did their preventive maintenance on them.
24 If they broke down, I know it was nothing -- never had any
25 problems with transmissions. It was more like blown fuses

Juror No. 70 - voir dire

1 for the air conditioner, the lights up on top don't work.
2 It was all stuff like that.

3 MR. FASTOW: And did you get into this field
4 through having a mechanical or mechanical engineering kind
5 of background?

6 JUROR NO. 70: No, sir. My neighbor, he worked
7 there, said, "hey, I think you would be a good fit."

8 MR. FASTOW: And do you have any particular
9 positive or negative attitudes towards Kenworth or
10 international?

11 JUROR NO. 70: No.

12 MR. FASTOW: That would affect your ability to
13 decide this case fairly, even if those companies came up?

14 JUROR NO. 70: Yeah, yeah. Yeah, because like I
15 said, we never really had any problems. You know, we
16 purchased parts. I mean, I was the parts manager and the
17 service manager there, so if the Kenworth broke down, people
18 would order parts on that. If the Internationals broke
19 down, we just sent them down to get repaired.

20 MR. FASTOW: Did you ever deal with any of Eaton
21 or Meritor Arvin?

22 JUROR NO. 70: On some of our equipment that
23 United Rentals had, some of the high reach -- because I
24 worked in the aerial division, and we did a lot of business
25 with, like, Genie Industries, Skyjack, and some of those

Juror No. 70 - voir dire

1 companies used those parties in the manufacturing of those.
2 I mean, I've heard of Eaton. I've heard of Dana. Some of
3 the pumps and stuff that were in the machines just happened
4 to have those names on it, but that does not mean I really
5 know anything about them.

6 MR. FASTOW: So you've heard about them?

7 JUROR NO. 70: Yes.

8 MR. FASTOW: You don't have particular attitudes
9 towards Eaton or Arvin?

10 JUROR NO. 70: No. No, sir.

11 THE COURT: Anything?

12 MR. RUYAK: When you say reach, you're talking
13 about cherry pickers and things you would rent out?

14 JUROR NO. 70: Yes. Boom lifts, scissor lifts,
15 forklifts, everything but basically cranes.

16 THE COURT: Thank you very much. Appreciate it.

17 JUROR NO. 70: Thanks.

18 Thanks for the coffee this morning.

19 THE COURT: Oh, you're welcome.

20 (Prospective juror exits juryroom.)

21 * * *

22 (Prospective juror enters juryroom.)

23 THE COURT: Hi. How are you?

24 JUROR NO. 76: Hi.

25 THE COURT: If you could have a seat next to me.

Juror No. 76 - voir dire

1 I think you are Juror 76?

2 JUROR NO. 76: Mm-hmm.

3 THE COURT: And you answered one of our last
4 questions affirmatively. Can you explain that?

5 JUROR NO. 76: I'm a diabetic, type-two
6 diabetic. And Wednesday, the 16th, I have an appointment at
7 night with my physician.

8 THE COURT: Okay. So serving here on the jury
9 for this long a trial might be a hardship on you physically?

10 JUROR NO. 76: Mm-hmm.

11 THE COURT: Plus, you have this doctor's
12 appointment?

13 JUROR NO. 76: Mm-hmm.

14 THE COURT: Let's see if the lawyers have any
15 questions for you.

16 Anything?

17 MR. FASTOW: No.

18 MR. RUYAK: No.

19 THE COURT: Thank you very much. Appreciate it.

20 JUROR NO. 76: Mm-hmm.

21 (Prospective juror exits juryroom.)

22 * * *

23 (Prospective juror enters juryroom.)

24 THE COURT: Hi. How are you?

25 JUROR NO. 78: Good. How are you?

Juror No. 78 - voir dire

1 THE COURT: If you could have a seat next to me.
2 You should be Juror 78?

3 JUROR NO. 78: Yes.

4 THE COURT: And you answered one of our last
5 questions affirmatively.

6 JUROR NO. 78: Yes. I babysit for three
7 different families, so it's not like I have a real job to go
8 to, but they are depending on me to be there for them.

9 THE COURT: All right. And that includes --
10 that's during the day as well as in the evening?

11 JUROR NO. 78: It's all during the day.

12 THE COURT: Oh. All during the day?

13 JUROR NO. 78: They go to work. I don't go to
14 work. I babysit while they go to work.

15 THE COURT: Oh, all right. So not only do you
16 not get paid if you are not there, but they don't have
17 anyone to take care of --

18 JUROR NO. 78: Right. Right.

19 THE COURT: Let's see if the lawyers have any
20 follow up.

21 Anything?

22 MR. FASTOW: The families bring the children to
23 you?

24 JUROR NO. 78: Yes. It's my children. It's my
25 children, my three children's children. Five grandchildren.

Juror No. 79 - voir dire

1 THE COURT: Oh, I see. So you take care of
2 them?

3 JUROR NO. 78: I do it for free, but they don't
4 have anybody else to take them to because I do it.

5 THE COURT: Okay. All right.
6 Anything from counsel?

7 MR. RUYAK: No.

8 THE COURT: All right. Thank you very much.

9 JUROR NO. 78: Mm-hmm.

10 THE COURT: A good grandmother.

11 MR. RUYAK: Yes.

12 (Prospective juror exits juryroom.)

13 * * *

14 (Prospective juror enters juryroom.)

15 THE COURT: Hi. How are you? If you can have a
16 seat next to me.

17 JUROR NO. 79: Sure.

18 THE COURT: Juror 79?

19 JUROR NO. 79: Yes.

20 THE COURT: All right. And you answered a
21 couple of our questions. One had to do with the subject
22 areas, training, experience, education. Can you tell us
23 which of the subject areas?

24 JUROR NO. 79: Sure. I work for a distribution
25 company that uses one of the carriers that was listed.

Juror No. 79 - voir dire

1 THE COURT: Okay. Which carrier was that?

2 JUROR NO. 79: New England Motor Freight.

3 THE COURT: Okay. Since I don't know why
4 they're listed, I will let the lawyers follow up with that.

5 JUROR NO. 79: Okay.

6 THE COURT: Okay.

7 MR. FASTOW: Do you have any involvement with
8 New England Motor Freight?

9 JUROR NO. 79: Not personally, no. I deal with
10 customers around the United States, and that's one of the
11 carriers that they sometimes use.

12 MR. FASTOW: What do you do?

13 JUROR NO. 79: I'm a customer service rep. so
14 they will go out for rates and sometimes New England Motor
15 Freight will come back with a better rate than the other
16 trucking companies.

17 MR. FASTOW: Are you part of arranging the
18 price, the cost of delivering?

19 JUROR NO. 79: I'm not part of it, no. I have
20 an awareness of it but I don't actually contact New England
21 Motor Freight. I just deal with the customers that may
22 choose New England Motor Freight or we may choose it for
23 them.

24 MR. FASTOW: Do you deal with any problems in
25 case a truck breaks down?

Juror No. 79 - voir dire

1 JUROR NO. 79: Sometimes. Like if a delivery is
2 going to be late, I would have to contact the customer and
3 let them know that there's a delivery issue.

4 MR. FASTOW: Are you involved in trying to find
5 out what happened in dealing with the customer in terms of
6 why it's late?

7 JUROR NO. 79: Yes. Yes.

8 MR. FASTOW: Okay.

9 THE COURT: All right?

10 MR. RUYAK: That's all. I don't have anything.

11 THE COURT: Just the general question, do you
12 think that your job experience would make it difficult for
13 you to be an impartial juror in this case?

14 JUROR NO. 79: I don't think so, no.

15 THE COURT: Okay. All right. Thank you very
16 much. Appreciate it.

17 JUROR NO. 79: Thank you.

18 (Prospective juror exits juryroom.)

19 THE COURT: There are always a few who have had
20 concerns since --

21 DEPUTY CLERK: Sorry, Judge.

22 THE COURT: How many?

23 DEPUTY CLERK: We have six additional jurors.

24 Juror No. 7 has an additional concern. He came back
25 earlier, but he has something else he wants to address with

Juror No. 7 - voir dire

1 your Honor.

2 THE COURT: Okay.

3 DEPUTY CLERK: Juror No. 14.

4 THE COURT: Okay.

5 DEPUTY CLERK: Juror No. 24. Juror No. 38.

6 Juror No. 62. And Juror No. 64.

7 (Prospective juror enters juryroom.)

8 THE COURT: Okay. Hi. How are you?

9 JUROR NO. 7: How are you?

10 THE COURT: Juror No. 7?

11 JUROR NO. 7: Yes.

12 THE COURT: You had some additional concerns?

13 JUROR NO. 7: Just concerns with the length of
14 trial regarding work.

15 THE COURT: All right. And can you justify
16 explain those?

17 JUROR NO. 7: Sure. I'm the Corporate Director
18 for HR. We start benefits open enrollment on Monday for a
19 period of five days. We just went into a new phase for
20 hiring process to bring in salespeople to grow the business.
21 It's all business related.

22 THE COURT: All right. And I take it that your
23 department isn't so large that they wouldn't -- I mean, do
24 you need to be there during these critical times?

25 JUROR NO. 7: Yes, ma'am. Particularly for the

Juror No. 14 - voir dire

1 hiring phase. I'm the one that does all the interaction
2 with the contractors and does the initial interviews to
3 bring them in.

4 THE COURT: All right. Let me see if the
5 lawyers have any follow up on that.

6 MR. FASTOW: No, your Honor.

7 MR. RUYAK: No. I'm fine.

8 THE COURT: Okay. Thank you very much.

9 JUROR NO. 7: Thank you, ma'am.

10 (Prospective juror exits juryroom.)

11 * * *

12 (Prospective juror enters juryroom.)

13 THE COURT: Hi. How are you? If you could have
14 a seat next to me, please.

15 I like your colors that you have there.

16 JUROR NO. 14: Thank you.

17 THE COURT: You are Juror 14?

18 JUROR NO. 14: I am.

19 THE COURT: And you had some concerns about
20 sitting as a juror?

21 JUROR NO. 14: I do. I have a job interview on
22 Monday, at 11:30, in Georgetown, for J.P. Court 3. And I
23 don't want to miss the interview.

24 THE COURT: So you're interviewing to be
25 employed by the Court?

Juror No. 14 - voir dire

1 JUROR NO. 14: Correct.

2 THE COURT: Already. Now, I take it, this is
3 important to you?

4 JUROR NO. 14: It is.

5 THE COURT: Let's see if the lawyers have any
6 followup questions.

7 MR. FASTOW: No.

8 MR. RUYAK: You are unemployed now?

9 JUROR NO. 14: I am unemployed. I was employed
10 by Connolly Bove as a real estate paralegal. My family is
11 from the Georgetown area. My mother has had cancer, and
12 I've been a primary caretaker for her, so I'm trying to
13 relocate back to Sussex County.

14 THE COURT: Okay.

15 MR. RUYAK: So it's very important?

16 JUROR NO. 14: It's very important, yes.

17 THE COURT: All right. Thank you very much.

18 JUROR NO. 14: Thank you.

19 (Prospective juror exits juryroom.)

20 * * *

21 (Prospective juror enters juryroom.)

22 THE COURT: Hi. How far are you?

23 JUROR NO. 14: Hello.

24 THE COURT: If you can have a seat next to me,
25 please.

Juror No. 24 - voir dire

1 And I think you are Juror 24?

2 JUROR NO. 24: Yes.

3 THE COURT: And you had some concerns that have
4 come to mind?

5 JUROR NO. 24: Yes. I am scheduled to be out of
6 town from the 25th to the 30th, so I didn't know how that
7 kind of affects anything. I just figured I would throw it
8 out there.

9 THE COURT: Well, we don't want to put anyone to
10 an undue hardship. Is this business or a vacation, prepaid,
11 airline tickets?

12 JUROR NO. 24: It's vacation. It's prepaid.

13 THE COURT: Okay.

14 JUROR NO. 24: The wife and I.

15 THE COURT: All right. And aside from being an
16 inconvenience, I guess you need to let us know whether it's
17 more than a mere inconvenience, whether it would cost you
18 money, whether your wife would throw you out. I mean, I
19 don't know. Let us know something.

20 JUROR NO. 24: No. I mean, the airfare, and
21 there are tickets bought for things that we're doing.

22 THE COURT: Nonrefundable type of thing?

23 JUROR NO. 24: Yes. I figured I would just tell
24 you now.

25 THE COURT: Well, I'm glad, because it's late to

Juror No. 24 - voir dire

1 tell us once you're seated.

2 JUROR NO. 24: Right. Right.

3 THE COURT: Anything from counsel?

4 MR. FASTOW: Yes. So you have tickets that you
5 would lose money on?

6 JUROR NO. 24: Yes. Football game.

7 MR. FASTOW: I take it, if you were sitting in
8 the jury, it might be distracting you if you couldn't do it?

9 JUROR NO. 24: I wouldn't say that. I would not
10 let it affect me if I was in the jury.

11 MR. FASTOW: But you have these plans?

12 JUROR NO. 24: I would like to go, yes, but I
13 wouldn't let it affect anything, no.

14 MR. FASTOW: It would cost you if you couldn't
15 do it?

16 JUROR NO. 24: Financially, yes.

17 MR. FASTOW: Okay.

18 THE COURT: Anything else?

19 MR. RUYAK: No.

20 THE COURT: Thank you very much.

21 JUROR NO. 24: Thank you.

22 (Prospective juror exits juryroom.)

23 * * *

24 (Prospective juror enters juryroom.)

25 THE COURT: Hi. How are you, sir?

Juror No. 38 - voir dire

1 JUROR NO. 38: Doing well. Thanks.

2 THE COURT: Is it still morning? Good

3 afternoon.

4 JUROR NO. 38: It's right on the cusp.

5 THE COURT: I believe you're Juror 38?

6 JUROR NO. 38: I am 38.

7 THE COURT: You had some concerns?

8 JUROR NO. 38: About the time commitment.

9 Through work, I'm scheduled the week of the 21st to attend a
10 semiannual sales/training meeting. The following week, I'm
11 scheduled to be in a training class for the entire week
12 through work. And on a personal note, the following week,
13 I'm scheduled to be in South Carolina.

14 THE COURT: All right. We certainly don't want
15 to inconvenience folks. Can you just tell us how important
16 these things are so we can put that as a matter of record?

17 JUROR NO. 38: Okay. Okay. The meeting, it's
18 an annual sales meeting. We do a lot of training. Fairly
19 important meeting.

20 The follow week's training probably can be
21 moved. I could probably attend one in October or November.

22 THE COURT: Okay.

23 JUROR NO. 38: And the vacation is paid for. I
24 would like to get down there, if I could.

25 THE COURT: All right. Any followup by counsel?

Juror No. 62 - voir dire

1 MR. FASTOW: Nothing.

2 MR. RUYAK: That's fine.

3 THE COURT: Thank you very much. Appreciate it.

4 JUROR NO. 38: Okay.

5 (Prospective juror exits juryroom.)

6 THE COURT: The next one is 62.

7 (Prospective juror enters juryroom.)

8 THE COURT: Hi. How are you? If you could
9 have a seat next to me.

10 Are you Juror 62?

11 JUROR NO. 62: Yes.

12 THE COURT: Could you tell us what concerns you
13 have?

14 JUROR NO. 62: I just don't feel I have four
15 weeks to devote to this at all, because right now I'm the
16 sole provider of my home for two families that I'm trying to
17 support everybody. And I'm financially behind in everything
18 that I'm doing at this point. And I need to work as much
19 overtime as I can at work, and I can't do it when I'm here.

20 THE COURT: Okay. So it would be a pure
21 financial burden for you?

22 JUROR NO. 62: Yes.

23 THE COURT: All right. Let's see if the lawyers
24 have any follow up.

25 Anything from counsel?

Juror No. 64 - voir dire

1 MR. FASTOW: No.

2 MR. RUYAK: No. That's fine.

3 THE COURT: Thank you very much.

4 JUROR NO. 62: Thank you.

5 (Prospective juror exits juryroom.)

6 * * *

7 (Prospective juror enters juryroom.)

8 THE COURT: Hi. How are you, sir?

9 JUROR NO. 64: Okay.

10 THE COURT: If you could have a seat next to me.

11 Are you Juror 64?

12 JUROR NO. 64: Yes.

13 THE COURT: And you had some concerns?

14 JUROR NO. 64: Well, I was a juror in the -- on
15 a lawsuit case.

16 THE COURT: Can you tell us what kind of lawsuit
17 and when it was?

18 JUROR NO. 64: It was about 2000, about a radio
19 broadcasting tower.

20 THE COURT: Okay. Like a personal injury kind
21 of --

22 JUROR NO. 64: The sale of it.

23 THE COURT: Oh, the sale of it?

24 JUROR NO. 64: Well, somebody backed out and
25 sold it to somebody else.

Juror No. 64 - voir dire

1 THE COURT: Okay. Did the jury reach a verdict
2 in the case? And can you remember what it was?

3 JUROR NO. 64: We did. We awarded, like,
4 \$100,000 to the people that they screwed out of the deal.

5 THE COURT: So it sounds like the plaintiff
6 probably won the lawsuit?

7 JUROR NO. 64: Yes. Yes.

8 THE COURT: Is there anything about that
9 experience that would make it difficult for you to sit as an
10 impartial juror here?

11 JUROR NO. 64: No.

12 THE COURT: Any other concerns?

13 JUROR NO. 64: That was it.

14 THE COURT: Let's see if there are any followup
15 questions.

16 MR. FASTOW: No.

17 MR. RUYAK: No.

18 THE COURT: Thank you very much.

19 JUROR NO. 64: Okay.

20 (Prospective juror exits juryroom.)

21 THE COURT: Is that everybody? Anyone else?

22 DEPUTY CLERK: No, ma'am.

23 THE COURT: Now, before we go through this, on
24 some occasions, I've gone out and said, this is your last
25 chance. We don't want to seat you as a juror if you have

1 any concerns. We vetted this pretty well. Do you think
2 people --

3 DEPUTY CLERK: I asked several times. Would you
4 like for me to go out and ask one more time?

5 THE COURT: Yes. One more time. I just want to
6 make sure.

7 DEPUTY CLERK: Okay.

8 THE COURT: Because, I mean, incredibly, I've
9 sworn in juries and I have someone say, oh, I forgot, I had
10 an appointment at the doctor's tomorrow. And we don't have
11 so many extra people here that I am concerned about.

12 MR. HOLCOMB: A lot of people are going on
13 vacation. Not us.

14 THE COURT: Yes. We'll go through the excuses
15 for cause and then we'll take a short break before we go in
16 for the peremptory challenges. We've all been at it for a
17 while.

18 DEPUTY CLERK: I stressed it, Judge, and no one
19 said anything.

20 THE COURT: All right. Well, let me go through
21 the jurors that I think we could excuse for cause and,
22 again, because we've got plenty, I'm not being particularly
23 critical about it.

24 Juror 1, who is taking the medicine. And is he
25 the one who didn't like lawyers? I don't know.

1 MR. RUYAK: Yes, he hated lawyers.

2 THE COURT: Juror 1, yes.

3 Juror 3, who is the seasonal worker.

4 Juror 4, who was the angry woman with no
5 transportation.

6 Juror 7, who is the HR person who came back and
7 said he had some concerns about the length of the trial.

8 Juror 14, who has the job interview on Monday.

9 Juror 17.

10 MR. RUYAK: His friend was killed last night.

11 THE COURT: Yes, that's right. He's the one who
12 broke down. Okay.

13 Juror 20, who is trying to work full-time,
14 part-time.

15 MR. RUYAK: Yes.

16 THE COURT: Juror 21, who teaches the preschool
17 children.

18 Juror 24, who has the nonrefundable vacation,
19 who just came in.

20 Juror 25, who is the sole provider of care for
21 her children, and whose husband had some affiliation with
22 the trucking industry. But it's basically she's got
23 children to take care of.

24 I had question marks next to 29 and 30, but I
25 didn't circle them, so unless someone wants them excused for

1 cause, I don't think they need to be.

2 MS. SULLIVAN: Your Honor, on Juror No. 30, I
3 represented Tri-State Waste in Chancery Court and I dealt
4 with Genie. I did not recognize her when she came in, but I
5 did deal with her directly in obtaining documents and
6 everything. I just don't know whether you would want to
7 address it with her if she were to be seated and then, you
8 know, after looking at me for three weeks, go, "aha."

9 THE COURT: Well, I, frankly, would rather
10 excuse her. This process has been long enough and I don't
11 know that it makes sense to take any chances here. So we
12 would excuse Juror 30, although she seemed delightful.

13 MR. RUYAK: Yes.

14 THE COURT: Juror 32, and I can't remember why.

15 MR. RUYAK: She's the diabetic.

16 MR. FASTOW: Her son was.

17 THE COURT: Her son was the diabetic.

18 Juror 33 is the one who said it was a hardship
19 because it was a family business.

20 MR. FASTOW: Yes.

21 THE COURT: Juror 36 was the truck driver, who
22 preferred Eaton transmissions. Well, kind of.

23 MR. RUYAK: I don't know why that should be
24 cause.

25 MR. HOLCOMB: He was actually wrong. He's

1 currently driving an Eaton transmission and he doesn't know
2 it.

3 MR. RUYAK: You could use one of your
4 peremptories. I don't know why that would disqualify a guy.

5 MR. FASTOW: He clearly stated a preference for
6 one of the parties' products.

7 THE COURT: I'm going to excuse him. However,
8 you can voice your objection to that for purposes of appeal.

9 Juror 37 said it was a hardship because he's one
10 of two people. He does the inventory.

11 Juror 38, he's one of the ones who just came in.

12 MR. FASTOW: Sales training and vacation to
13 South Carolina.

14 MR. RUYAK: Training seemed to be an issue.

15 THE COURT: Well, the first week was, the second
16 week wasn't, but then he's got this prepaid vacation in
17 South Carolina. That's right.

18 Juror 42, I had a question mark next to. He
19 didn't seem sure that he wasn't smarter than we were and
20 that he could set that aside.

21 MR. HOLCOMB: We like smart people.

22 THE COURT: What?

23 MR. HOLCOMB: We like smart people.

24 THE COURT: But they've got to listen to me,
25 whether they are smarter than I am or not. You all have to

1 listen to me even though you all are smarter than I am.

2 All right.

3 MR. HOLCOMB: We waffled a little bit. He said
4 we're influenced by what we know.

5 THE COURT: If there's a question, because we
6 can. So that's 42.

7 MR. FASTOW: You are?

8 THE COURT: We are excusing him for cause.

9 Juror 45 was, she worked, she has a sick mother.
10 I don't know. She had lots of --

11 MR. FASTOW: The tax filing.

12 THE COURT: That's right. The tax filing.

13 MR. RUYAK: A tax letter.

14 THE COURT: That's right. And she started to
15 tear up here. So anyway, she was nervous about it all.

16 Juror 51, I had circled, but didn't write down
17 why.

18 MR. REID: She is a Morris Nichols' employee.

19 THE COURT: She is the one who waved and left.

20 Juror 53, I had a question mark next to. I
21 don't know. It was hard for me to tell whether -- I don't
22 know that he needs to be -- I just have a question mark next
23 to him.

24 Anyone?

25 MR. FASTOW: I would think he should be excused.

1 He seemed to be pretty much into auto components, including
2 transmissions. He seems to work on the interface between
3 that and other components, and he's an inventor or designer.
4 He seemed a little much into the innards of all of that.
5 Mechanical engineer?

6 THE COURT: Well, having knowledge does not
7 automatically, but I guess if we're going to be consistent
8 about this, I guess we'll excuse him for cause.

9 Juror 60 has the physical issue that she was
10 concerned about.

11 Juror 62 was the sole provider of two families,
12 as I recall.

13 Juror 66 was the one who had bittersweet
14 feelings about Chrysler. Now, I don't know how important
15 Chrysler is in this case. I really don't. So I don't know
16 whether --

17 MR. RUYAK: It's really not.

18 MR. HOLCOMB: She's okay.

19 MR. FASTOW: Yes, she's okay.

20 THE COURT: All right.

21 Juror 76 was the diabetic with the medical
22 appointment.

23 And, 78 was the babysitting grandmother.

24 MR. RUYAK: Yes.

25 THE COURT: Are there any additional excuses for

1 cause? I will go over them once more.

2 MR. HOLCOMB: We might have missed 14.

3 MR. FASTOW: Yes.

4 MR. REID: Yes.

5 THE COURT: All right. Let me go over those
6 numbers again, to make sure we're all on the same page.

7 Are we all set?

8 MR. FASTOW: Sure.

9 THE COURT: All right. 1, 3, 4, 7.

10 MR. FASTOW: I'm sorry. 3?

11 THE COURT: 3.

12 MR. FASTOW: Yes.

13 THE COURT: 4, 7, 14, 17, 20, 21, 24, 25, 30,
14 32, 33, 36, 37, 38, 42, 45, 51, 53, 60, 62, 76, and 78.

15 DEPUTY CLERK: No 29? Your Honor said she had a
16 question mark.

17 THE COURT: I did have, but that was another
18 Chrysler person and I think we decided that it really -- I
19 think that's fine.

20 DEPUTY CLERK: Okay.

21 THE COURT: Yes. All right.

22 Is there anything else we need to discuss on the
23 record?

24 MR. FASTOW: No.

25 THE COURT: All right. Do you want to take

1 5-10 minutes to get ready to come out the front? I will
2 leave you to have a cup of coffee, eat a doughnut, use the
3 bathrooms, and I will take 10 minutes.

4 (Proceedings resume in the courtroom as
5 follows.)

6 THE COURT: All right. I know it has been a
7 long morning for you all. We appreciate your patience.
8 This is the last step where the lawyers get to exercise
9 their peremptory challenges.

10 You will see, we have a high-tech system in this
11 court. You all have been assigned numbers. Those who have
12 been excused for cause, their numbers will be taken out of
13 the batch. The rest of your numbers will be put in a wooden
14 box and Larisha will scientifically shake it and pull
15 numbers out randomly and that will be the pool from which
16 the lawyers will exercise their peremptory challenges.

17 So, Larisha, are you all set?

18 DEPUTY CLERK: I am, Judge.

19 THE COURT: All right. Here we go.

20 DEPUTY CLERK: When I call your number, if you
21 would please take a seat in the first two rows on the
22 right-hand side.

23 Juror No. 13.

24 Juror No. 47.

25 Juror No. 29.

1 Juror No. 9.

2 Juror No. 12.

3 Juror No. 67.

4 Juror No. 57.

5 Juror No. 8.

6 Juror No. 49.

7 Juror No. 19.

8 Juror No. 59.

9 Juror No. 63.

10 Juror No. 23.

11 Juror No. 75.

12 Juror No. 79.

13 Juror No. 34.

14 (Long pause.)

15 DEPUTY CLERK: When I call your number, if you
16 will please come forward and take a seat in the seat I
17 designate in the jury box.

18 Juror No. 13, if you would please take the first
19 seat in the first row.

20 Juror No. 29, if you would please take the
21 second seat in the first.

22 THE COURT: And please watch your step. There
23 are all sorts of wires and chairs, so walk carefully.

24 DEPUTY CLERK: Juror No. 67, if you would please
25 take the third seat in the first row.

1 Juror No. 57, if you would please take the
2 fourth seat in the first row.

3 Juror No. 49, if you would please take the fifth
4 seat in the first row.

5 Juror No. 59, if you would please take the first
6 seat in the second row.

7 Juror No. 63, if you would please take the
8 second seat in the second row.

9 Juror No. 23, if you would please take the third
10 seat in the second row.

11 Juror No. 75, if you would please take the
12 fourth seat in the second row.

13 And Juror No. 79, if you would please take the
14 fifth seat in the second row.

15 THE COURT: All right. Are there any issues we
16 need to address before we excuse our jury panel? Anything
17 from counsel?

18 MR. FASTOW: No, your Honor, not from us.

19 THE COURT: All right. Members of the jury
20 panel, thank you so much for your time and attention, and
21 your participation in this most important part of our
22 justice system. You are excused. Thank you again.

23 Let's swear our jury.

24 (Jury sworn/affirmed.)

25 THE COURT: All right. You may be seated.

1 We are not going to start the trial today. On
2 Monday morning, at 9:30, we'll start with opening statements
3 given by the parties. Well, we'll start with some
4 preliminary instructions by me and then go into opening
5 statements by the parties.

6 What I would like you to do, though, is just
7 have you spend a minute or two finding out where the jury
8 room is, how to get in and out of our chambers.

9 This jury trial is timed. That means each side
10 has been given a certain number of hours in which to present
11 their case. That means that the trial will end when I say
12 it will end, and we will give you schedules on Monday so you
13 know exactly when to be here and when we'll have trial and
14 not.

15 That system can only work, of course, if you are
16 here promptly as well.

17 If any of you live downstate, we do provide
18 hotel accommodations, if you really need that. You need to
19 talk to Larisha about that.

20 Even though you have not heard any evidence
21 about the case, I'm going to give you instructions that
22 you'll get every evening. That is, during the evening r
23 recess and over the weekend, you are not to discuss the case
24 or speculate about it among yourselves or with anyone else.

25 You are not to read or listen to anything

1 touching on the case. By that, I mean if there were a
2 television or radio or newspaper report about this case, you
3 are not to read about it. You are to make your decision
4 only on the evidence you hear in the courtroom.

5 And, finally, you are not to go out and perform
6 any independent research about the trucking industry or
7 transmissions or anything else. Your decision is supposed
8 to be based only on what the lawyers present here in the
9 courtroom.

10 I hope you have a safe trip home, a pleasant
11 weekend. And we look forward to seeing you on Monday
12 morning at 9:30.

13 We do provide lunches here so that we will have
14 a break in the morning, a break in the afternoon, and we do
15 provide lunches over our half-hour luncheon break. So you
16 don't need to worry about that. You are welcome to bring
17 your own, if you choose to.

18 All right. Larisha is going to take you back,
19 give you a quick tour. We'll see you on Monday. Thank you.

20 (The jury was excused.)

21 THE COURT: All right. You all may be seated.

22 I wanted to go over the preliminary instructions.
23 The question is whether we all want half an hour for lunch
24 before we finish up, or whether you want to go over the
25 preliminary instructions now. I don't know how many other

1 issues there are besides the preliminary -- if there are a
2 lot of other issues, then there's no question, we should
3 take half an hour for lunch.

4 MR. FASTOW: Your Honor, we just saw Eaton's
5 proposed revisions this morning. Frankly, I think they're
6 quite controversial.

7 The only question I've have is whether there
8 are drafting ways that the parties could try to avoid the
9 controversy. At this stage, I expect the ultimate stage of
10 jury instructions, we're going to really argue them.

11 THE COURT: Right.

12 MR. FASTOW: I don't know if it's possible to
13 work on the language and come to some agreement. It may be
14 hard because, in part, they're trying to rewrite our claims,
15 but it may be that it's worth spending a few minutes, seeing
16 if there is an easier solution.

17 THE COURT: Well, I guess the question is,
18 because I have not gotten the materials about the
19 "conspiracy", that I'm not confident that I would want that
20 word used in the preliminary instructions so that it's
21 something that's giving the Court's imprimatur right from
22 the get-go.

23 On the other hand, it's also not necessarily
24 routine for the defendant's position to be given as much
25 vetting as it is, because we're really talking about the

1 burden of proof and what the plaintiff has to prove. So
2 there are probably ways to tone it down a little bit to give
3 the jury enough information without turning it into an
4 argument.

5 If you want to work on it, that's fine.
6 Otherwise, I will just do my own drafting. I just looked at
7 it during jury selection as well, so I'm not real familiar
8 with it. I've looked at it once.

9 Are there other issues besides this and all the
10 issues you've given me over the weekend that need to be
11 addressed? Should we start this or should we all take half
12 an hour?

13 MR. FASTOW: I guess one would be the allocation
14 of trial time.

15 THE COURT: I haven't given you that. I have
16 it. It's in back, so I will give that to you.

17 MR. FASTOW: So if we should take a half-hour?

18 THE COURT: Yes. Why don't we take half an
19 hour, and I will hand that out, and we'll start with the
20 instructions, preliminary instructions, and then anything
21 else we need to address.

22 So take some lunch. I need to get out of my
23 computer, so you may leave as you wish.

24 (Luncheon recess taken.)

25 * * *

1 (Afternoon session began at 1:28 p.m.)

2 THE COURT: Unless you've come to agreement, I
3 have my own edits in mind.

4 MR. FASTOW: Your Honor, I think we have come to
5 agreement.

6 THE COURT: Oh, okay.

7 MR. FASTOW: What we were going to propose, if
8 it were, is just get back to our respective offices, we send
9 them our comments we've agreed to and put it together and
10 send it to your Honor.

11 THE COURT: Okay. Wonderful.

12 MR. FASTOW: Now, there is just one thing I'd
13 like to do in connection with your comment on "conspiracy".
14 We've managed to we think avoid that issue for now.

15 THE COURT: Right. That's all I was asking.

16 MR. FASTOW: But there is one more case further
17 to the Bogosian case I wanted to mention to your Honor on
18 that point.

19 THE COURT: All right. Before we leave for this
20 afternoon, I just want to make sure that I know when things
21 are coming in so I can make sure I've got people here to
22 receive them.

23 All right. Yes, sir?

24 MR. FASTOW: This case is the In Re: Flat Glass
25 Antitrust Litigation, which is 385 F3d 350. And that's at

1 Pages 356 and 357.

2 THE COURT: All right.

3 MR. FASTOW: It's Third Circuit 2004. And it
4 says, citing to a 1994 Third Circuit case, the Outward Pope
5 case, the Sherman Act speaks in terms of a "contract",
6 "combination", or "conspiracy", but courts have interpreted
7 this language to require "some form of concerted action".

8 THE COURT: All right. Thank you very much.

9 MR. FASTOW: Just further on Bogosian.

10 My understanding, our filings, I understand a
11 couple things have been filed.

12 THE COURT: We did get papers from Meritor and
13 so I guess we're just waiting for papers in response.

14 MR. RUYAK: Yes, your Honor. We'll have them
15 around 4:00 o'clock. Is that okay?

16 THE COURT: 4:00 o'clock, yes.

17 MR. RUYAK: I will make sure we have them before
18 4:00. Only two minor issues. One is we're working on the
19 Dr. DeRamus issue and I think we're close. We have to go
20 back and just look at the portions. What we're doing is we
21 are excising portions of his report so that we understand
22 what he's going to testify to.

23 There are parts that deal with damages we've
24 excised. There are some that are a little more difficult,
25 but what we plan to do is try to agree on those things and

1 then let you know. He's not going to be on the stand right
2 away anyway, so we'll do that.

3 And then the other thing we wanted to ask your
4 Honor, we noticed that you gave the plaintiffs a few more
5 hours than you gave us, and we were a little bit concern
6 about that because the nature of this case is that there are
7 so many pieces that they plan to bring in, we're still a bit
8 concerned about having less hours, particularly if we need
9 to do some cross-examination that's extensive.

10 Now, we have some solutions to that we're going
11 to propose to you, but we are a little worried about the
12 difference in hours.

13 THE COURT: All right. I understand that. And
14 I guess based on the other total hours you gave me, I
15 thought that I gave each of you less than half of the total
16 amount of time that you had wanted. But I understand this
17 is -- now, as I said, if you look at that big stack of
18 records that I've kept for all my trials --

19 MR. RUYAK: Yes.

20 THE COURT: It's only the rare case where folks
21 come up to actually using the time, but I will think about
22 it over the weekend and see if there's anything we can do
23 about it, or if you want to suggest something.

24 MR. RUYAK: Your Honor, we are going to really
25 try to stay within those hours. I guess we just hope that

1 if, during the course of trial, things kind of change --

2 THE COURT: Right.

3 MR. RUYAK: -- and we're faced, particularly
4 with Dr. DeRamus, we're going to give you some papers on
5 this, but some of his testimony is basically, your Honor,
6 being a fact witness in the case. If you read his report,
7 he takes a myriad of documents, many of which will not be
8 put in evidence, quoting them, trying to tell a whole story
9 as a fact witness.

10 Now, if that is the kind of testimony he's
11 allowed to give, which I assume he would not be, but if he
12 is, that's going to take a lot of cross-examination in front
13 of the jury. And he draws factual conclusions, he draws
14 legal conclusions. It's not pure economics.

15 So I think what we'll do is try to point that
16 out to you and see how you rule on it. But if that's what
17 comes in, then we're really concerned about the time, things
18 like that.

19 But if we just go through trial, I think if you
20 can be a little bit flexible, if we get to the other end,
21 that would be fine.

22 THE COURT: All right. I will certainly do
23 that.

24 Have you all talked about and agreed to any -- I
25 mean, in terms of demonstratives and opening statements?

1 MR. FASTOW: We haven't at this point, your
2 Honor. We spoke yesterday about speaking about it, but we
3 have not gotten there yet, so maybe over the weekend.

4 THE COURT: All right. The bottom line is that
5 I don't have the time or the energy to resolve disputes
6 about demonstratives. And you all understand that if you're
7 unreasonable with the opposing party, if there's any
8 objection raised, then, basically, it does not come in,
9 because this is opening. And you are not supposed to be
10 proving your case through our opening statements.

11 So it behooves you to be reasonable with each
12 other because if the defendant objects to the plaintiff, the
13 plaintiff will undoubtedly object to the defendant, and you
14 will end up with no demonstratives at all. So I just want
15 you to know that I'm not going to spend any time on it. If
16 you can't agree, it does not come in.

17 MR. FASTOW: Yes. We see that in your civil
18 guidelines.

19 THE COURT: You read them? All right. Thank
20 you very much.

21 MR. FASTOW: Yes.

22 THE COURT: Bring water because the water in the
23 building is not great and I have to pay for the water for my
24 staff and for me, so although we fill these, I don't know
25 that it's with the water that I buy. It might be from the

1 water from the tap, so you might want to bring your own.

2 Is there anything else that we need to address?

3 MR. FASTOW: Not that I can think of at the
4 moment, your Honor.

5 MR. RUYAK: I think we're all set up on the
6 equipment, so that should be fine.

7 THE COURT: All right.

8 MR. RUYAK: If not, we will try to get somebody
9 over here this afternoon, see if there are any loose ends on
10 that, but I think we have all the equipment pretty well set
11 up.

12 THE COURT: All right. Good.

13 Now, I do have some proceedings in the morning,
14 and I will try to have something -- if I need to talk to you
15 further before I make a decision on the issues that you're
16 presenting me, I will let you know. I guess you should plan
17 to be here before 9:30, so that we can talk about any loose
18 ends.

19 MR. FASTOW: 9:00 clock?

20 THE COURT: 9:00 o'clock would be fine. I'm
21 going to try to do the work and write something up over the
22 weekend, but with my luck, my computer will break and I
23 won't be able to do it. So I just want to let you know, I
24 will be working on it and hope to have something final.

25 Anything else?

1 MR. FASTOW: Thank you.

2 MR. RUYAK: I don't think so. Thank you, your
3 Honor.

4 THE COURT: Have a good weekend. Be safe out
5 there.

6 I have to get out of my computer, so you may
7 leave as you wish.

8 Thank you, Valerie and Brian.

9 (Proceedings adjourn at 1:35 p.m.)

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